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TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1966

No. 136

RICHARD H. M. SWANN, ET AL., APPELLANTS,

vs.

TOM ADAMS, SECRETARY OF STATE OF THE STATE OF FLORIDA, ET AL.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA

FILED MAY 14, 1966

PROBABLE JURISDICTION NOTED OCTOBER 10, 1966

SUPREME COURT OF THE UNITED STATES

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[fol. A]

IN THE UNITED STATES DISTRICT COURT

Three Judge Case

Non-Jury DD

186-62-M-Civil-DD

RICHARD H. M. SWANN,

vs.

TOM ADAMS, Secretary of State of the State of Florida; CLAUDE R. BROWN, Supervisor of Registration of Dade County, Florida; E. L. GATES, Supervisor of Registration of Broward County, Florida; and W. B. FREEMAN, Supervisor of Registration of Monroe County, Florida.

Suit for fair reapportionment of representatives in Legislature.

For plaintiff:

Richard H. Swann, 634 W. Flagler St., Miami, Fla.

DOCKET ENTRIES

[fol. B]

DATE	PROCEEDINGS
1962	
Mar. 28	Complaint
Mar. 28	Summons Issued
April 12	Summons returned executed on Claude R. Brown, 4-2-62
April 12	Summons returned executed on Tom Adams—4-3-62
April 12	Summons returned executed on E. L. Gates—4-4-62

DATE	PROCEEDINGS
1962	
Apr. 17	Summons returned executed W. B. Freeman
Apr. 23	Answers of Defendant, Claude R. Brown to Amended Complaint
Apr. 24	Memorandum in Support of Motion to Dismiss Complaint by Defendant
Apr. 24	Notice of Hearing 5/7/62 10:
Apr. 27	Motion to Dismiss by Defendant
Apr. 30	Notice of Hearing 21 May 62
Apr. 30	Motion to Dismiss & Answer by Defendant
Apr. 30	Memorandum Brief
May 7	Notice of Hearing 5/21/62 10:00 D
May 7	Memorandum in Support of Motion to Dismiss Complaint
May 7	Motion to Dismiss
May 3	Notice of Hearing 5/21/62-2
May 3	Motion to Amend by Plaintiff
May 3	Memorandum in Opposition to Motions to Dismiss
May 15	Memo in opposition of motion to dismiss, etc.
May 15	Notice of hearing 5-21-62-D
May 16	Motion for impanelment of three judge court
May 16	Notice of hearing 5-21-62-D
May 18	Notice of Hearing 5/21/62
May 18	Motion to Dismiss by Defendant
May 18	Memorandum in Support of Motion to Dismiss
May 21	Order of Consolidation Consolidation With Case(s) 182-62
Jun. 12	Three Judge Hearing on all pending motions—Order to be entered by the Court
June 22	Pre-Trial Conference—Final Hearing set for 7/23/62.
Aug. 20	Minutes of Court
Dec. 21	House Resolution 47-XX

DATE	PROCEEDINGS
1963	
Feb. 7	Opinion of Three Judge Court regarding Judgment
Feb. 7	Judgment determining validity of Senate Bill 10-X
June 25	Opinion of U.S. Supreme Court with Attached Letter (copies to 3 Judges) Reversing Judgment of U.S.D.C.
July 20	Mandate From U.S.S.C. Reversing and Remanding For Further Proceedings.
Sep. 9	Pet of League of Women Voters of Fla. to File Brief Amicus Curiae.
Oct. 21	Petition of Edward Vioira to Intervene.
Oct. 21	Order Correction Error For Filing Petition.
Oct. 21	Order Denying Petition of Swann to Restrain Sec. of State. Re: Vote on General Ballot of Nov. 3, 1964
Oct. 21	Certify That Original of Memo. of Law Was Filed With Court on 10/14/64.
Nov. 12	Pltfs Motion For Hearing Date.
Nov. 12	Pltfs Pet For Order on Mandate.
Nov. 17	Notice of Document Returned.
[fol. C]	
1964	
Nov. 20	Motion to Accelerate Cause and For Other Relief Herman Goldner Petitioner.
Dec. 22	Exhibits Returned by U.S. Supreme Court. (Letter Accompanying).
Dec. 28	Memorandum Brief of Amicus Curiae.
Dec. 31	Record on Appeal Returned by U.S. Supreme Court, (Refiled).

DATE	PROCEEDINGS
1965	
Jan. 8	Order Denying Pet. to Intervene of Herman Goldner and Pet. For Order on Mandate of Lee Weissenborn, Granting Pet of League of Women Voters of Fla. and Pet. of Peter Sobel, Court Also Finds That He Has No Further Standing in Said Cases, Action Deferred Until Further Order of Court On All Pending and Undisposed Prayers of Swann, Etc.
Jan. 18	Motion For New Trial By Peter Sobel.
Jan. 27	Order; Peter B. Sobels' Motion For New Trial Stricken From the Files; Has No Standing in the Consolidated Cases (Judges Jones Mc Rae, Jr. and David W. Dyer; 1/22/65.
Mar. 3	Letter From Supreme Court Re: Weissenborn's Motion to Accelerate Filing of Briefs & to Advance Denied.
Mar. 18	Petition of Edward Vieira to Be Substituted as Pltf in Lieu of Richard H. M. Swann.
Mar. 31	Notice of Document Returned: Pet to Stay (Edward Vieira).
Apr. 28	Letter From Supreme Court Re: Weissenborn's Motion For Leave to File Pet For Mandamus Denied.
May 3	Cert Copy of Supreme Court Order: Denying Motion For Leave to File Pet For Writ of Mandamus As to Weissenborn (4/26/65).
May 26	Appearance of Counsel For Pltf Richard H. M. Swann. (Paul & Sams)
Jun. 16	Pet of Edward Vieira For Appointment of Monitor.
Jun. 22	Order of 3-Judge Court: Parties & Amici Curiae to Submit Plans By July 6, 1965, if Florida Legislature Has Not Validly Reapportioned By July 1, 1965. (Judge Jones)

DATE	PROCEEDINGS
1965	
Jun. 22	Notice of Document Ret. (Information For Court's Judicial Notice)
Jun. 24	Notice of Document Ret (Pet and Proposed Order)
Jun. 25	An Information For the Courts Judicial Notice (Edward Vieira, Petitioner)
June 29	Petition From Edward Vieira, Petitioner For Leave to Submit the Following Proposed Order
July 1	Petition of Manning J. Dauer to File Amicus Curiae Brief.
July 1	Order Granting Manning J. Dauer Permission to File Brief.
July 2	Amicus Curiae Brief of Manning J. Dauer.
July 2	Suggestion of Amicus Curiae by Halley B. Lewis.
July 6	Notice of Document Returned (Plan of Reapportionment).
July 6	Petition of John J. Savage to Become a Party As One of Amici Curiae.
July 6	Copy of Florida House Bill 19-XX and Senate Bill 26-XX (65).
July 6	Petition For Leave to Submit Plan of Reapportionment As Amicus Curiae, by Wometco Enterp.
July 6	Joint Petition to Declare Legislative Apportionment Act Unconstitutional and Submitting Valid Reapportionment Plan For Adoption By Court.
July 6	Response of League of Women Voters As Amicus Curiae, to Order of June 22, 1965.
July 6	Petition of Government Research Council As Amicus Curiae.
July 6	Notice of Document Returned (Motion For Entry of Order Ext. Time For Filing Return to Court's Mandate). (To Robert A. Chastain).

[fol. D]

DATE		PROCEEDINGS
1965		
July	6	Notice of Document Returned to Fred L. Spencer (Suggested Plan of Reapportionment.
July	6	Notice of Document Returned to John E. Mathews, Jr. (Memo Brief of Amicus Curiae, et al)
July	6	Notice of Document Returned to Hon. L. S. Campbell (Reapportionment Plan).
July	6	Notice of Document Returned to David B. Higginbottom (Petition to Intervene As Amicus Curiae).
July	6	Notice of Document Returned to Wm. Reece Smith, Jr. (Petition of Herman W. Goldner to File Plan of Reapportionment).
July	6	Notice of Document Returned to John B. McLeod (Plan For Reapportionment).
July	6	Motion For Entry of Order Extending Time For Filing Return to Court's Mandate, Filed by Defendants. (Copy of House Bill 19-XX attached)
July	6	Order upon Motion of the State of Florida For Tom Adams, For Extension of Time For a Response to the Order of the Court Requesting Parties in Amici to File Plans and Supporting Data, Order Granting Fifteen Days to Respond. (7/6/65)
July	9	Memorandum Brief of Amicus Curiae Filed By John E. Mathews, Jr. With Attached House Bill 19-XX (Which Became Law Midnight July 6, 1965).
July	6	Petition of James L. Beardsley to Be Recognized As Amici Curiae.
July	6	Petition of Herman W. Goldner to File Plan of Reapportionment As A. Curiae.
July	6	Plan of Reapportionment of the Legislature of the State of Florida.

DATE		PROCEEDINGS
1965		
July	6	Petition of David B. Higginbottom to Intervene As Amicus Curiae.
July	9	Statement of Errata Correcting Mathematical and Typographical Errors in "Joint Petition to Declare Legislative Apportionment, Etc." Filed on 7/6/65, Filed By Richard H. M. Swann.
July	14	Brief of John E. Mathews, Jr.,—Amicus Curiae —in Support of the Constitutional Validity of House Bill 19-XX.
July	19	Brief of Amicus Curiae in Opposition to House Bill 19-XX, Filed By Mallory E. Horne.
July	19	Statement of Errata Amicus Curiae Brief of Manning J. Dauer.
July	19	Petition to Be Authorized As Amici Curiae to Submit Re-apportionment Plan (With Copy of Plan for Reapportionment), By John B. McLeod.
July	22	Notice of Document Returned (Pet. For Leave to File Brief: Brief of Amicus Curiae) to A. J. Thomas, Jr. and William Wadsworth.
July	23	Petition of the Young Democratic Club of Dade County, Florida to Appear As Amicus Curiae With Amicus Curiae Brief Attached.
July	26	Supplement of 23 July, 1965 Amicus Curiae Brief of Manning J. Dauer.
Aug.	2	Petition of Edward Vieira For Court's Consent to Appeal As Substitute Plaintiff.
Aug.	2	Plea of Edward Vieira For Court to Relax Certain Rules in the Public Interest.
Aug.	2	Petition of Sam Jones (to Relax Certain Rules in the Public Interest).
Aug.	2	An Information For Court's Judicial Notice By Sam Jones.
Aug.	2	Letter and Plan of Rene A. Zacchini.

DATE		PROCEEDINGS
1965		
Aug.	2	Letter From Ormand Powers & Newspaper Editorial.
Aug.	2	Letter—Plan of Matthew M. Slepin.
Aug.	2	Letter—Plan of Michael Abrams.
Aug.	2	Letter—Plan of R. F. Lencioni.
Aug.	2	Letter—Plan of W. C. NeSmith.
Aug.	2	Suggestion and Plan of Justin F. Langille.
Aug.	2	Letter—Plan of Russell C. Jordan, Jr.
[fol. E]		
Aug.	2	Letter—Plan of Paul Douglass.
Aug.	2	Letter—Plan of Jerry Carter.
Aug.	2	Petition of A. J. Thomas and William L. Wadsworth For Leave to File Brief and Appear Amicus Curiae.
Aug.	2	Order Accepting For Filing As Briefs Amici Curiae the Petitions and Letters Tendered By John Mc Leod, David Higginbottom, John Savage, Herman Goldner, James Beardsley, Wometco Enterprises, Edward Bieira, Sam Jones, Rene Zacchini, Ormund Powers, Matthew Slepin, Michael Abrams, R. F. Lencioni, W. C. NeSmith, Justin Lagill, Russell Jordan Jr., Paul Douglass, Jerry Carter, Young Democratic Club of Dade County, A. J. Thomas and Wm. L. Wadsworth (7/31/65).
Aug.	4	An Information For Courts Judicial Notice By Edward Vieira.
Aug.	4	Brief of Amicus Curiae in Opposition to the Constitutional Validity of House Bill 19-XX Passed By the Legislature in June, 1965 and Proffer of Plan Which Would Meet the Equal Protection Test, Filed By A. J. Thomas, Jr. and William L. Wadsworth.

DATE		PROCEEDINGS
1965		
Aug.	4	An Information For the Court's Judicial Notice By Edward Vieira.
Oct.	4	An Information For the Courts Judicial Notice By Edward Vieira.
Oct.	5	Notice of Hearing on All Pending Matters 11/2/65/11:00.
Oct.	7	An Information For the Court's Judicial Notice By Edward Vieira.
Oct.	26	Amicus Curiae Brief of Manning J. Dauer (Supplement of 10/16/65)
Oct.	29	Memorandum of Amicus Curiae Halley B. Lewis.
Nov.	2	An Information For the Court's Judicial Notice in the Instant Cause By Edward Vieira.
Nov.	30	Memorandum to the Court.
Dec.	23	Order: Plan of Apportionment As Enacted Does Not Meet Requirements of Equal Protection Clause of Federal Constitution; Plan As Enacted Is Modified By Deleting Section 1(3) and Approved As an Interim Plan For a Period Ending 60 Days After Adjournment of 1967 Regular Session of Florida Legislature; District Court Retains Jurisdiction Until Adjudication That Valid Plan Has Been Enacted or Made Effective By Decree of Court. (WLJ) DWD) WAM).
Dec.	29	Petition to Intervene For the Purpose of Appeal By Edward Vieira.
Dec.	29	Notice of Appeal By Richard H. M. Swann. (to Supreme Court).
Dec.	30	Notice of Appeal By Claude R. Brown. (to Supreme Court).

DATE	PROCEEDINGS
1966	
Jan. 5	Order Denying Petition of Edward Vieira to Intervene.
Jan. 5	Stipulation As to Appeal By Tom Adams.
Jan. 7	Stipulation As to Appeal By W. B. Freeman.
Jan. 7	Stipulation As to Appeal By E. L. Gates.
Jan. 18	Motion of Pltf. For Permission to Remove Portion of Record For Photocopying.
Jan. 18	Order Granting Motion For Permission to Remove Portion For Photocopying For Appeal Purposes. (1/18/66)
Jan. 18	An Information For the Court's Judicial Notice, Etc. Filed By Edward Vieira.
Jan. 27	Record on Appeal Forwarded to Parker Thompson, Esq. For Transmittal to the United States Supreme Court.
Feb. 28	Opinion From Supreme Court With Letter Attached Stating that Judgment or Mandate Will Issue after 25 Days. Opinion: District Court Reversed and Remanded.
Feb. 28	Joint Petition of Pltf. and Deft. Dade County Supervisor of Registration to Carry Out Order of U.S. Supreme Court.
Mar. 1	Order on Joint Petition of Parties: This Court Without Jurisdiction Until Mandate Received: Hearing on Petition Deferred Until a Time to Be Set After Receipt of U.S. Supreme Court Mandate or Judgment. (3/1/66)
[fol. F]	
Mar. 7	Judgment From the Supreme Court: District Court Reversed With Costs; Cause Is Remanded to the District Court For Further Proceedings in Conformity With the Opinion of the Supreme Court. Further Ordered That the Appellants Recover From Appellees $100.00 For Their Costs Herein Expended.

DATE	PROCEEDINGS
1966	
Mar. 8	Notice of Hearing For Tuesday, March 15, 1966 at 11:00 A.M.
Mar. 14	Brief of Amicus Curiae John E. Mathews, Jr. in Support of Constitutional Validity of House Bill 17-X.
Mar. 14	Motion of Deft. Tom Adams to Adopt Reapportionment Plan.
Mar. 15	Suggested Modification to the Plan of Apportionment Contained in HB 17-X Enacted By the Legislature on 3/9/66, Filed By Plaintiff and Deft. Supervisor of Elections of Dade County, Florida.
Mar. 15	Analysis of HB 17-X As Enacted By the Legislature, Etc. Filed by Pltf. and Deft., Supervisor of Elections.
Mar. 18	Order on Reapportion: The Plan of Apportionment of the Florida Legislature, As Found in HB 17-X(66), Enacted in March 1966, Meets Federal Constitutional Standards and Is Accepted By This Court As the Standard to Be Used in Selecting Members For the 1967 Session of the Florida Legislature. (3/18/66)
Mar. 25	Notice of Appeal to the Supreme Court By the Supervisor of Elections of Dade County, Florida, Previously Known As the Supervisor of Registration of Dade County, Florida.
Mar. 25	Notice of Appeal to the Supreme Court By the Plaintiff Richard H. M. Swann.
Apr. 14	Transcript of Hearing Held on March 15, 1966.
19	Notice of Appearance of Additional Counsel. (Parker, Foster & Madigan For Defendant W. B. Freeman, Supervisor of Registration of Monroe County, Fla.)

DATE		PROCEEDINGS
1966		
May	5	Motion to Remove File to Prepare Record on Appeal.
	5	Order Granting Motion to Remove File to Prepare Record on Appeal (5/5).

I certify the foregoing to be a true and correct copy of the original which has been filed of record in this Office.

Joseph I. Bogart, Clerk, United States District Court, Southern District of Florida, By Melvin R. Stein, Deputy Clerk.

[Seal]

[fol. 1]

SUPREME COURT OF THE UNITED STATES

SWANN et al.,

v.

ADAMS et al.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA.

No. 973.

PER CURIAM—DECIDED FEBRUARY 25, 1966—Filed in District Court February 28, 1966

We previously remanded this case to the District Court for further proceedings in light of *Reynolds* v. *Sims*, 377 U. S. 533, and the other cases relating to legislative reapportionment decided with *Reynolds*, 378 U. S. 553. The District Court deferred action until the conclusion of the legislative session which convened on April 6, 1964, stating that it would reconsider its decision should the Florida Legislature fail to effect a valid reapportionment by July 1, 1965.

A reapportionment law was passed by the legislature on June 29, 1965. On July 6 the appellants filed a joint petition asking the District Court to declare the newly enacted plan unconstitutional and proposing an alternative plan. The District Court did not take action until October 5 when it ordered oral argument for November 2, 1965. On December 23 the District Court concluded that the newly passed reapportionment plan failed to "meet the requirements of the Equal Protection Clause of the Federal Constitution as construed and applied in *Reynolds* v. *Sims*. . . ."

Although the District Court concluded that the plan did not comport with constitutional requirements, it approved the plan (making only minor changes) on an interim basis. Its approval was limited to the period ending 60 days after the adjournment of the 1967 session of the Florida Legislature.

We have no occasion to review the District Court's determination that the legislative reapportionment plan [fol. 2] fails to meet constitutional standards. Indeed, Florida does not contend that the District Court erred in this regard, having conceded below that the plan was constitutionally deficient. We hold, however, that in approving the plan on an interim basis, the District Court erred. This litigation was commenced in 1962. The effect of the District Court's decision is to delay effectuation of a valid apportionment in Florida until at least 1969. While recognizing the desirability of permitting the Florida Legislature to itself determine the course of reapportionment, we find no warrant for perpetuating what all concede to be an unconstitutional apportionment for another three years.

We reverse and remand to the District Court so that a valid reapportionment plan will be made effective for the 1966 elections.

Reversed.

MR. JUSTICE HARLAN and MR. JUSTICE STEWART would affirm the judgment.

MR. JUSTICE FORTAS took no part in the consideration or decision of this case.

[fol. 3]

OFFICE OF THE CLERK
SUPREME COURT OF THE UNITED STATES
WASHINGTON, D. C., 20543

February 25, 1966

Re: SWANN, ET AL. v. ADAMS, ET AL.,
No. 973, Oct. Term, 1965
(Your No. 186-62-M-Civ.)

Dear Sir:

The enclosed opinion of this Court in the above case was announced on the date indicated.

The judgment or mandate will issue after the expiration of 25 days from the date of the opinion, or if a timely petition for rehearing is filed, from the date of the order thereon. When the 25-day period expires in vacation, the filing of a petition for rehearing will not stay the issuance of the judgment or mandate. (See Rule 59).

Very truly yours,

John F. Davis, Clerk, By /s/ Michael Rodak, Jr.,
Chief Deputy.

Encl.

Clerk, U.S. District Court for the Southern District of Florida, Miami, Fla.

AIRMAIL

[fol. 4]

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA

MIAMI DIVISION

RICHARD H. M. SWANN, Plaintiff,

—v—

TOM ADAMS, Secretary of State of the State of Florida, et al., Defendants.

JOINT PETITION TO CARRY OUT ORDER OF U. S. SUPREME COURT—Filed February 28, 1966

Plaintiff and Defendant Dade County Supervisor of Registration jointly move the Court to place into effect in Florida forthwith the legislative reapportionment plan attached hereto as Exhibit A and previously filed with this Court on July 6, 1965 on the following grounds:

1. The Supreme Court of the United States in its order of February 25, 1966 reversing in part this Court's order of December 23, 1965 directed that a valid reapportionment plan be made effective for the 1966 elections.

2. The first primary elections in Florida for State offices, including members of the Legislature, will be held May 3, 1966. The Supreme Court has held that this election may not take place prior to placing into effect a reapportionment plan meeting constitutional requirements.

[File endorsement omitted]

[fol. 5] 3. The Legislature of the State of Florida, as presently constituted, has been held by the United States Supreme Court to be unconstitutionally apportioned. To permit this malapportioned Legislature which does not represent the people of the State of Florida to enact another reapportionment plan would deny to Plaintiff and to others similarly situated due process of law in violation of the Fourteenth Amendment to the Constitution of the United States.

4. The 1965 Special Session of the Florida Legislature which adopted the reapportionment plan declared unconstitutional by this Court on December 23, 1965 cost the State of Florida $323,796. and the Comptroller of the State of Florida has estimated that another special session would cost $12,000. a day. After seven Legislative attempts to reapportion, the Court should not permit an eighth expensive exercise in futility.

5. The 32 Senator and 68 Representative plan attached hereto as Exhibit A meets all constitutional requirements. In no constituency under this plan is there any deviation of more than 3.35 percent from the ideally sized constituency based on absolute mathematical equality. The Plan is also in accordance with the requirements of Article VII, Section 2 of the Florida Constitution.

If the Court should not adopt this Plan at this time, Petitioners then respectfully request the Court to decree that each member of the Florida Legislature at the Special [fol. 6] Session called to convene on Wednesday, March 2, 1966 cast a vote (including votes cast in committees and party caucuses) weighted in proportion to the number (as shown by the 1960 decennial census) of people in the area from which he was elected to protect Plaintiff and others similarly situated from discrimination by an unconstitu-

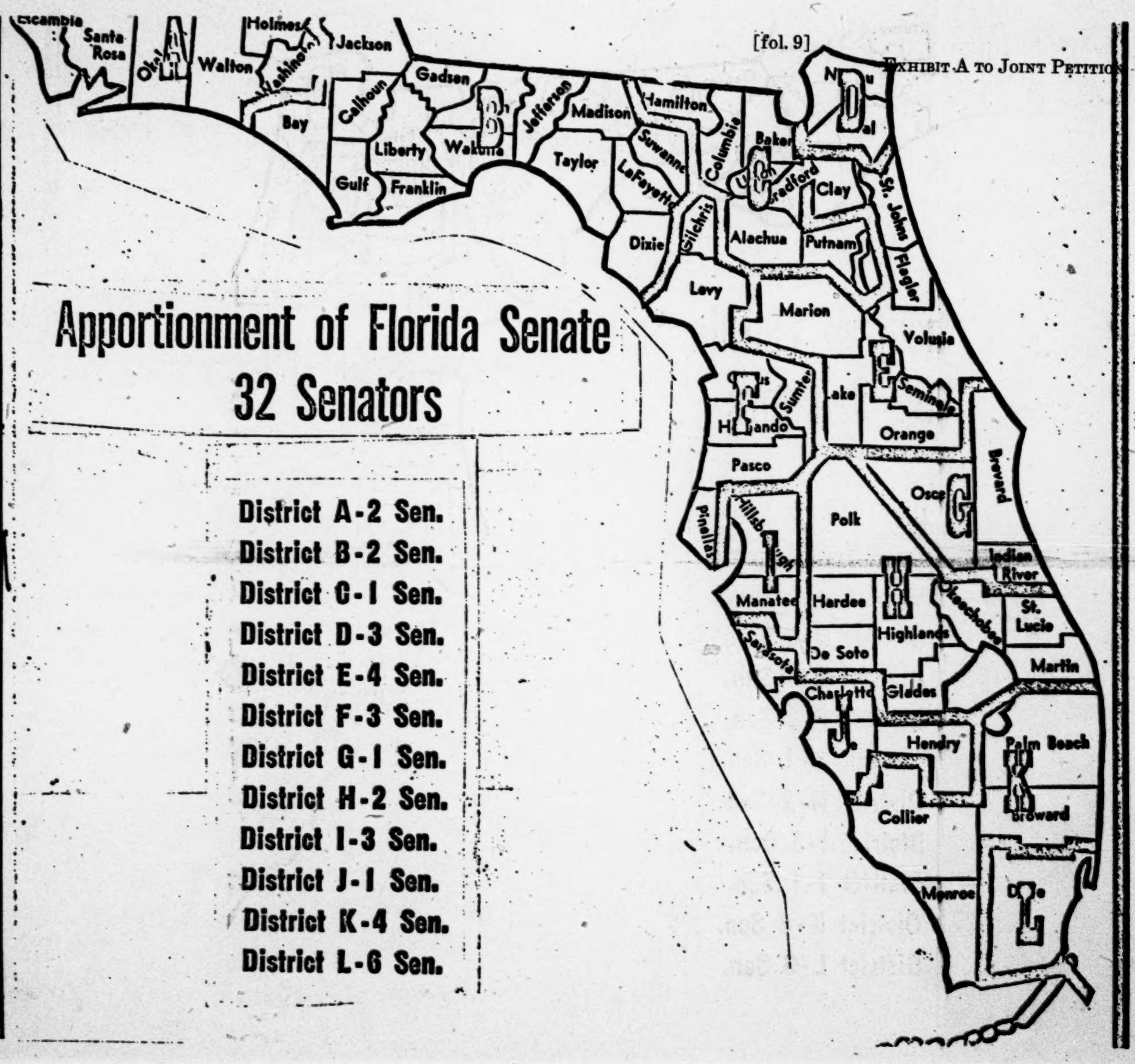
tional malapportioned Legislature. A schedule showing such weighted votes is attached hereto as Exhibit B.

D. P. S. Paul, P. D. Thomson, Paul & Sams, Attorneys for Plaintiff, 1314 First National Bank Building, Miami, Florida 33131.

Thomas C. Britton, Dade County Attorney, Stuart L. Simon, Assistant Dade County Attorney, Attorneys for Defendant, Supervisor of Elections.

[fol. 7] Certificate of Service (omitted in printing).

EXHIBIT A TO JOINT PETITION



[fol. 10]

APPORTIONMENT OF FLORIDA SENATE

32 SEATS

District	*County*	*1960 Population*
A	Escambia	173,829
(2 Senators)	Santa Rosa	29,547
	Okaloosa	61,175
	Walton	15,576
	Holmes	10,844
	Washington	11,249
	Total	302,220

When the population in this district is divided by the number of Senators allotted to it, it will be seen that each Senator will represent 151,110 persons.

B	Jackson	36,208
(2 Senators)	Bay	67,131
	Calhoun	7,422
	Gulf	9,937
	Franklin	6,576
	Liberty	3,138
	Gadsden	41,989
	Leon	74,225
	Wakulla	5,257
	Jefferson	9,543
	Madison	14,154
	Taylor	13,168
	Suwannee	14,961
	Lafayette	2,889
	Dixie	4,479
	Total	311,077

When the population in this district is divided by the number of Senators allotted to it, it will be seen that each Senator will represent 155,539 persons.

District	*County*	*1960 Population*
C	Hamilton	7,705
(1 Senator)	Columbia	20,077
	Baker	7,363
	Union	6,043
	Bradford	12,446
	Alachua	74,074
	Putnam	32,212
	Total	159,920

[fol. 11]

D	Nassau	17,189
(3 Senators)	Duval	455,411
	Total	472,600

When the population in this district is divided by the number of Senators allotted to it, it will be seen that each Senator will represent 157,533 persons.

E	Clay	19,535
(4 Senators)	St. Johns	30,034
	Flagler	4,566
	Volusia	125,319
	Marion	51,616
	Lake	57,383
	Seminole	54,947
	Orange	263,540
	Total	606,940

When the population in this district is divided by the number of Senators allotted to it, it will be seen that each Senator will represent 151,735 persons.

District	*County*	*1960 Population*
F	Gilchrist	2,868
(3 Senators)	Levy	10,364
	Citrus	9,268
	Sumter	11,869
	Hernando	11,205
	Pasco	36,785
	Pinellas	374,665
	Total	457,024

When the population in this district is divided by the number of Senators allotted to it, it will be seen that each Senator will represent 152,341 persons.

G	Osceola	19,029
(1 Senator)	Brevard	111,435
	Indian River	25,309
	Total	155,773

H	Polk	195,139
(2 Senators)	Hardee	12,370
	De Soto	11,683
	Highlands	21,338
	Okeechobee	6,424
	Glades	2,950
	St. Lucie	39,294
	Martin	16,932
	Total	306,130

[fol. 12] When the population in this district is divided by the number of Senators allotted to it, it will be seen that each Senator will represent 153,065 persons.

District	*County*	*1960 Population*
I	Hillsborough	397,788
(3 Senators)	Manatee	69,168
	Total	466,956

When the population in this district is divided by the number of Senators allotted to it, it will be seen that each Senator will represent 155,652 persons.

J	Sarasota	76,895
(1 Senator)	Charlotte	12,594
	Lee	54,539
	Hendry	8,119
	Total	152,147
K	Palm Beach	228,106
(4 Senators)	Broward	333,946
	Collier	15,753
	Monroe	47,921
	Total	625,726

When the population in this district is divided by the number of Senators allotted to it, it will be seen that each Senator will represent 156,432 persons.

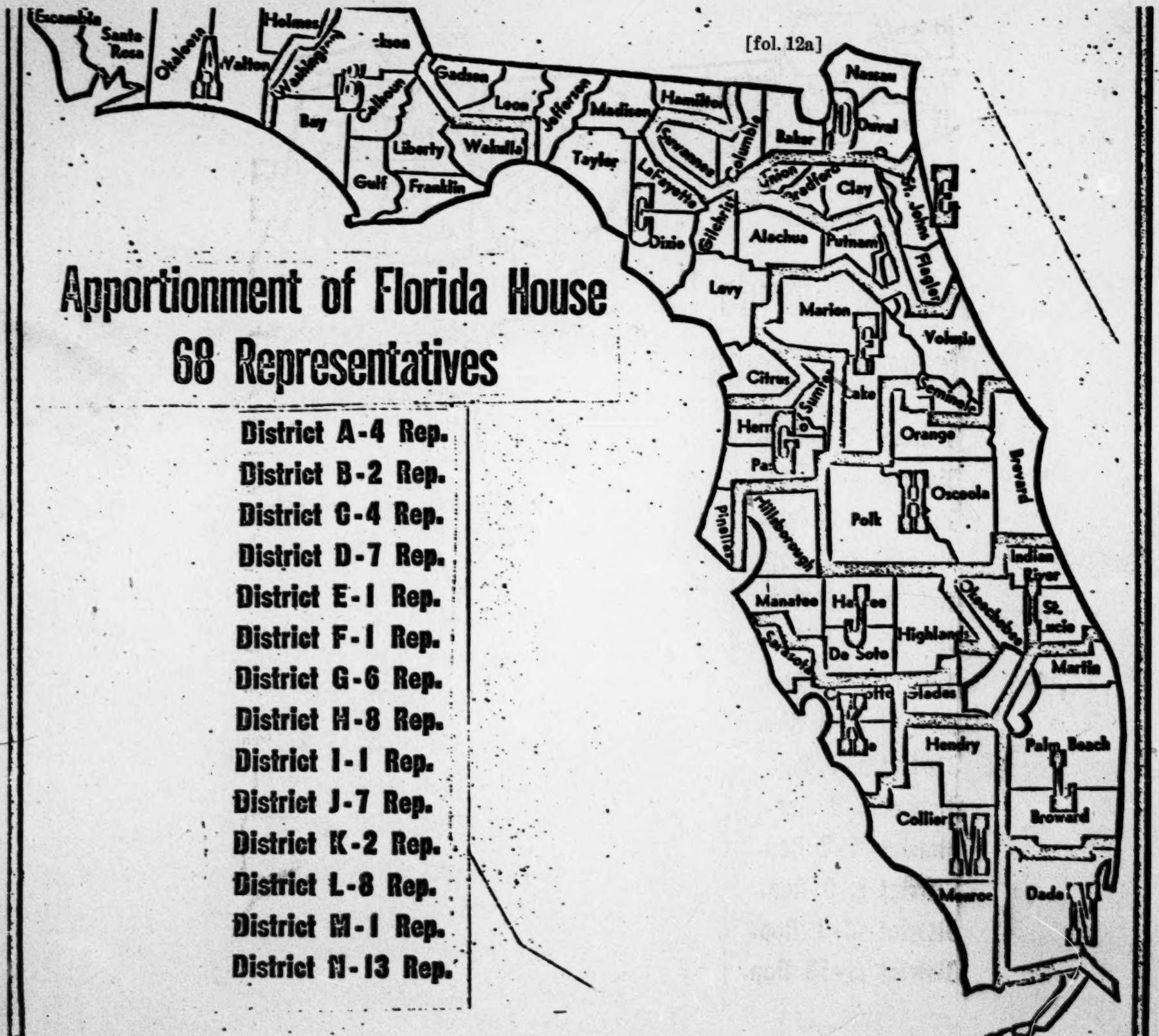
L		
(6 Senators)	Dade	935,047

When the population in this district is divided by the number of Senators allotted to it, it will be seen that each Senator will represent 155,841 persons.

[fol. 12a]

(See opposite) ☞

[fol. 12a]



Apportionment of Florida House

68 Representatives

District A	4 Rep.
District B	2 Rep.
District C	4 Rep.
District D	7 Rep.
District E	1 Rep.
District F	1 Rep.
District G	6 Rep.
District H	8 Rep.
District I	1 Rep.
District J	7 Rep.
District K	2 Rep.
District L	8 Rep.
District M	1 Rep.
District N	13 Rep.

[fol. 13]

APPORTIONMENT OF FLORIDA HOUSE

68 SEATS

District	*County*	*1960 Population*
A	Escambia	173,829
(4 Representatives)	Santa Rosa	29,547
	Okaloosa	61,175
	Walton	15,576
	Holmes	10,844
	Total	290,971

When the population of this district is divided by the number of Representatives allotted to it, it will be seen that each Representative will represent 72,743 persons.

B	Jackson	36,208
(2 Representatives)	Washington	11,249
	Bay	67,131
	Calhoun	7,422
	Gulf	9,937
	Liberty	3,138
	Franklin	6,576
	Wakulla	5,257
	Total	146,918

When the population of this district is divided by the number of Representatives allotted to it, it will be seen that each Representative will represent 73,459 persons.

C	Hamilton	7,705
(4 Representatives)	Gadsden	41,989
	Leon	74,225
	Jefferson	9,543

District	*County*	*1960 Population*
	Madison	14,154
	Taylor	13,168
	Lafayette	2,889
	Dixie	4,479
	Gilchrist	2,868
	Alachua	74,074
	Levy	10,364
	Putnam	32,212
	Citrus	9,268
	Total	296,938

[fol. 14] When the population of this district is divided by the number of Representatives allotted to it, it will be seen that each Representative will represent 74,235 persons.

D	Nassau	17,189
(7 Representatives)	Duval	455,411
	Baker	7,363
	Columbia	20,077
	Suwannee	14,961
	Total	515,001

When the population of this district is divided by the number of Representatives allotted to it, it will be seen that each Representative will represent 73,572 persons.

E	Union	6,043
(1 Representative)	Bradford	12,446
	Clay	19,535
	St. Johns	30,034
	Flagler	4,566
	Total	72,624

District	*County*		*1960 Population*
F	Marion		51,616
(4 Representatives)	Lake		57,383
	Volusia		125,319
	Seminole		54,947
		Total	289,265

When the population of this district is divided by the number of Representatives allotted to it, it will be seen that each Representative will represent 72,316 persons.

G	Sumter		11,869
(6 Representatives)	Hernando		11,205
	Pasco		36,785
	Pinellas		374,665
		Total	434,524

When the population of this district is divided by the number of Representatives allotted to it, it will be seen that each Representative will represent 72,421 persons.

[fol. 15]

H	Orange		263,540
(8 Representatives)	Polk		195,139
	Osceola		19,029
	Brevard		111,435
		Total	589,143

When the population of this district is divided by the number of Representatives allotted to it, it will be seen that each Representative will represent 73,643 persons.

District	*County*		*1960 Population*
I	Indian River		25,309
(1 Representative)	Okeechobee		6,424
	St. Lucie		39,294
	Glades		2,950
		Total	73,977
J	Hillsborough		397,788
(7 Representatives)	Manatee		69,168
	Hardee		12,370
	De Soto		11,683
	Highlands		21,338
		Total	512,347

When the population of this district is divided by the number of Representatives allotted to it, it will be seen that each Representative will represent 73,192 persons.

K	Sarasota		76,895
(2 Representatives)	Charlotte		12,594
	Lee		54,539
		Total	144,028

When the population of this district is divided by the number of Representatives allotted to it, it will be seen that each Representative will represent 72,014 persons.

L	Martin		16,932
(8 Representatives)	Palm Beach		228,106
	Broward		333,946
		Total	578,984

When the population of this district is divided by the number of Representatives allotted to it, it will be seen that each Representative will represent 72,373 persons.

District	*County*		*1960 Population*
[fol. 16]			
M	Hendry		8,119
(1 Representative)	Collier		15,753
	Monroe		47,921
		Total	71,793
N	Dade		935,047
(13 Representatives)			

When the population of this district is divided by the number of Representatives allotted to it, it will be seen that each Representative will represent 71,927 persons.

[fol. 17]

DEVIATION FROM "IDEAL" OR ABSOLUTE MATHEMATICAL EQUALITY

Senate "Ideal" or Absolute Mathematical Equality of 154,736:

District	*Senators*	*Persons Represented Per Senator*	*Percentage of Deviation*
A	2	151,110	—2.34
B	2	155,539	+0.52
C	1	159,920	+3.35
D	3	157,533	+1.81
E	4	151,735	—1.94
F	3	152,341	—1.55
G	1	155,773	+0.67
H	2	153,065	—1.08
I	3	155,652	+0.59
J	1	152,147	—1.67
K	4	156,432	+1.10
L	6	155,841	+0.71

House "Ideal" or Absolute Mathematical Equality of 72,817:

District	*Representatives*	*Persons Represented Per Rep.*	*Percentage of Deviation*
A	4	72,743	—0.10
B	2	73,459	+0.88
C	4	74,235	+1.95
D	7	73,572	+1.04
E	1	72,624	—0.27
F	4	72,316	—0.69
G	6	72,421	—0.54
H	8	73,643	+1.13
I	1	73,977	+1.59
J	7	73,192	+0.51
K	2	72,014	—1.10
L	8	72,373	—0.61
M	1	71,793	—1.41
N	13	71,927	—1.22

[fol. 18]

Exhibit B to Joint Petition

(See opposite) ☞

[fol. 18]

WEIGHTED VOTING PLAN BASED ON PRESENT APPORTIONMENT OF THE FLORIDA LEGISLATURE

	1960 Population		Representatives			Senators	
County	Number	Percent of State	Present Number	Total Weighted Votes for County	Weighted vote for each Repre-sentative	Present Number	Weighted Vote
Dade	935,047	18.8839	14	21.14997	1.511	2	8.120 [1/]
Duval	455,411	9.1973	7	10.30098	1.472	1	3.955
Hillsborough	397,788	8.0336	6	8.99763	1.500	1	3.454
Pinellas	374,665	7.5666	6	8.47459	1.412	1	3.254
Broward	333,946	6.7443	5	7.55362	1.511	1	2.900
Orange	263,540	5.3224	4	5.96109	1.490	1	2.289
Palm Beach	228,106	4.6067	4	5.15950	1.290	1	1.981
Polk	195,139	3.9410	3	4.41392	1.471	1	1.695
Escambia	173,829	3.5106	3	3.93187	1.311	1	1.510
Volusia	125,319	2.5309	2	2.83461	1.417	1	1.088
Brevard	111,435	2.2505	2	2.52056	1.260	1	.968
Sarasota	76,895	1.5529	1	1.73925	1.739	1	.668
Leon	74,225	1.4990	1	1.67888	1.679	1	.645
Alachua	74,074	1.4960	1	1.67552	1.676	1	.643
Manatee	69,168	1.3969	1	1.56453	1.564	1	.601
Bay	67,131	1.3558	1	1.51850	1.518	1	.583
Okaloosa	61,175	1.2355	1	1.38376	1.384	1	.531
Lake	57,383	1.1589	1	1.29797	1.298	1	.498
Seminole	54,947	1.1097	1	1.24286	1.243	1	.477
Lee	54,539	1.1015	1	1.23368	1.234	1/3	.474
Marion	51,616	1.0424	1	1.16749	1.167	1	.448
Monroe	47,921	.9678	1	1.08394	1.084	1	.416
Gadsden	41,989	.8480	1	.94976	.950	1	.365
St. Lucie	39,294	.7936	1	.88883	.889	1	.341
Pasco	36,785	.7429	1	.83205	.832	1	.319
Jackson	36,208	.7312	1	.81894	.819	1/2	.314
Putnam	32,212	.6504	1	.72845	.728	1	.280
St. Johns	30,034	.6066	1	.67939	.679	1/2	.261
Santa Rosa	29,547	.5967	1	.66830	.668	1	.257

1/ Each of the 2 senators in Dade County would have 4.060 votes.

[fol. 19]

County	1960 Population Number	1960 Population Percent of State	Representatives Present Number	Representatives Total Weighted Votes for County	Representatives Weighted vote for each Representative	Senators Present Number	Senators Weighted Vote
Indian River	25,309	.5111	1	.57243	.572	1	.220
Highlands	21,338	.4309	1	.48261	.483	1/2	.185
Columbia	20,077	.4055	1	.45416	.454	1	.174
Clay	19,535	.3945	1	.44184	.442	1/3	.170
Osceola	19,029	.3843	1	.43042	.430	1/3	.165
Nassau	17,189	.3471	1	.38875	.389	1/2	.149
Martin	16,932	.3420	1	.38304	.383	1/3	.147
Collier	15,753	.3181	1	.35627	.356	1/3	.137
Walton	15,576	.3146	1	.35235	.352	1/3	.135
Suwannee	14,961	.3021	1	.33835	.338	1/3	.130
Madison	14,154	.2858	1	.32010	.320	1/3	.123
Taylor	13,168	.2659	1	.29781	.298	1/3	.114
Charlotte	12,594	.2543	1	.28482	.285	1/2	.109
Bradford	12,446	.2514	1	.28157	.282	1/3	.108
Hardee	12,370	.2498	1	.27978	.280	1/3	.107
Sumter	11,869	.2397	1	.26846	.268	1/3	.103
DeSoto	11,683	.2359	1	.26421	.264	1/3	.101
Washington	11,249	.2272	1	.25446	.254	1/3	.098
Hernando	11,205	.2263	1	.25346	.253	1/3	.097
Holmes	10,844	.2190	1	.24528	.245	1/3	.094
Levy	10,364	.2093	1	.23441	.234	1/3	.089
Gulf	9,937	.2007	1	.22478	.225	1/4	.086
Jefferson	9,543	.1927	1	.21582	.216	1/3	.083
Citrus	9,268	.1872	1	.20966	.210	1/3	.080
Hendry	8,119	.1640	1	.18368	.184	1/3	.071
Hamilton	7,705	.1556	1	.17427	.174	1/3	.067
Calhoun	7,422	.1499	1	.16789	.168	1/2	.064
Baker	7,363	.1487	1	.16654	.167	1/2	.064
Franklin	6,576	.1328	1	.14874	.149	1/4	.057
Okeechobee	6,424	.1297	1	.14526	.145	1/3	.056
Union	6,043	.1220	1	.13664	.137	1/3	.052
Wakulla	5,257	.1062	1	.11894	.119	1/4	.046

[fol. 20]

	1960 Population		Representatives			Senators	
County	Number	Percent of State	Present Number	Total Weighted Votes for County	Weighted vote for each Representative	Present Number	Weighted Vote
Flagler	4,566	.0922	1	.10326	.103	1/2	.040
Dixie	4,479	.0905	1	.10136	.101	1/3	.039
Liberty	3,138	.0634	1	.07101	.071	1/4	.027
Glades	2,950	.0596	1	.06675	.067	1/3	.026
Lafayette	2,889	.0583	1	.06530	.065	1/3	.025
Gilchrist	2,868	.0579	1	.06485	.065	1/3	.025
TOTALS	4,951,560	99.9998%	112	111.99977		43	42.998

[fol. 21]

IN THE UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF FLORIDA

[Title omitted]

ORDER DEFERRING HEARING—March 1, 1966

The Plaintiff and Defendant, Dade County Supervisor of Registration, having filed a "Joint Petition to Carry Out Order of U. S. Supreme Court," and having requested an early hearing thereon, and it appearing that no mandate or judgment has been received by the Clerk of this Court from the Supreme Court of the United States and that until the mandate or a judgment has been received this Court is without jurisdiction to consider the Petition, it is

ORDERED that a hearing on said Petition be deferred until a time to be set after receipt by this Court of the mandate or judgment of the Supreme Court of the United States.

Enter for the Court: March 1, 1966

David W. Dyer, United States District Judge.

[File endorsement omitted]

[fol. 22]

SUPREME COURT OF THE UNITED STATES

No. 973—October Term, 1965

RICHARD H. M. SWANN, et al., Appellants,

v.

TOM ADAMS, Secretary of State of Florida, et al.

JUDGMENT FILED IN DISTRICT COURT—March 7, 1966

Appeal from the United States District Court for the Southern District of Florida.

This cause came on to be heard on the transcript of the record from the United States District Court for the Southern District of Florida.

On consideration whereof, It is ordered and adjudged by this Court that the judgment of the said United States District Court in this cause be, and the same is hereby, reversed with costs; and that this cause be, and the same is hereby, remanded to the United States District Court for the Southern District of Florida for further proceedings in conformity with the opinion of this Court.

It is further ordered that the said appellants, Richard H. M. Swann, et al., recover from Tom Adams, Secretary of State of Florida, et al., One Hundred Dollars ($100) for their costs herein expended.

February 25, 1966

Clerk's costs $100

A true copy
Test:

John F. Davis, Clerk of the Supreme Court of the United States.

[File endorsement omitted]

[fol. 23]

OFFICE OF THE CLERK
SUPREME COURT OF THE UNITED STATES
WASHINGTON, D. C., 20543

March 3, 1966

Joseph I. Bogart, Esquire
Clerk, U. S. District Court for the
Southern District of Florida
Miami, Florida

Re: Swann et al. v. Adams et al.,
No. 973, Oct. Term, 1965
(Your No. 186-62-M-Civ)

Dear Mr. Bogart:

Enclosed is a certified copy of the judgment of this Court in the above-entitled case.

Kindly acknowledge receipt on the enclosed copy of this letter.

Very truly yours,

John Davis, Clerk
By Evelyn R. Limstrong
(Mrs.) Evelyn R. Limstrong
Assistant

Encl.

Air Mail
Special Delivery

[fol. 24]

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

[Title omitted]

NOTICE OF HEARING—Filed March 8, 1966

Take Notice that the Court will hear all matters pending and undisposed of in the above-entitled cause:

on Tuesday, March 15, 1966, at 11 A.M. in the Central Courtroom at the Post Office Building, Miami, Florida

Argument will be confined to counsel for parties to the cause and not from amici curiae.

By Order of the Court:

J. I. Bogart, Clerk

Date: Mar 8 1966

cc: Honorable Warren L. Jones, United States Circuit Judge;

Honorable David W. Dyer, United States District Judge;

Honorable William A. McRae, Jr., United States District Judge.

BB/ci

[fol. 25] Parties in Suit

Paul and Sams, Esqs., 1314 First National Bank Building, Miami, Florida, Attorneys for Plaintiff Richard H. M. Swann.

Honorable Earl Faircloth, Attorney General, State of Florida, Tallahassee, Florida, Attorney for Defendant Tom Adams.

[File endorsement omitted]

John U. Lloyd, Esq., Office of Broward County Attorney, Broward County Courthouse, Ft. Lauderdale, Florida, Attorney for Hon. L. B. Gates, Supervisor of Registration of Broward County, Florida.

Thomas C. Britton, Esq., Office of Dade County Attorney, 1626 Dade County Courthouse, Miami, Florida, Attorney for Hon. Claude Brown, Supervisor of Registration of Dade County.

Paul E. Sawyer, Esq., P. O. Box 571, Key West, Florida, Attorney for Hon. W. B. Freeman, Supervisor of Registration of Monroe County.

Parties Amici Curiae

Halley B. Lewis, Esq., P. O. Box 48, Ft. Myers, Florida.

Honorable John E. Mathews, Jr., 1530 Lynch Building, Jacksonville, Florida.

Mallory E. Horne, Esq., P. O. Box 228, Tallahassee, Florida.

William G. O'Neill, Esq., P. O. Box 253, Ocala, Florida.

[fol. 26]

IN THE UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF FLORIDA

[Title omitted]

MOTION TO ADOPT REAPPORTIONMENT PLAN—
Filed March 14, 1966

Comes Now the Defendant, Tom Adams, Secretary of State of the State of Florida, by and through his undersigned attorney and files this his motion to adopt the present apportionment plan of Florida, to-wit: House Bill 17-X(66), Chapter 66-1, Laws of Florida, duly passed and enacted on March 9, 1966, by the Special Session of the Florida Legislature, convened at the Governor's call of February 26, 1966, and for grounds thereof states:

1. That the Legislature of the State of Florida assembled as aforesaid did enact House Bill 17-X. The act provides for a bicameral Legislature of 48 Senators and 117 Representatives, a copy of said plan together with exhibits is attached hereto and made a part of this petition as though set out in haec verba.

2. That the maximum population variance ratio in the reapportioned Senate of the State of Florida is 1.30 to 1. 48.61% of the population elect 50% of the Senate. The average population per Senator is 103,158. The smallest senatorial district is 87,847 and the largest is 114,053, or a maximum population variance ratio of 1.30 to 1.

[fol. 27] 3. That the maximum population variance ratio in the reapportioned House of Representatives of the State of Florida is 1.41 to 1. 50.43% of the population elect 50.43% of the House of Representatives. The average population per member is 42,321. The smallest representative

[File endorsement omitted]

district is 34,584 and the largest is 48.785, or a maximum population variance ratio of 1.41 to 1.

4. The Defendant herein urges this court that the plan afore described complies with the standards of *Reynolds* v. *Sims*, 377 U. S. 533 (1964). See also *Lucas* v. *Colorado General Assembly*, 377 U.S. 713, and *Harrison* v. *Schaefer*, 34 L.W. 3294.

5. The Defendant further urges that the plan complies with the standards set forth in *Fortson* v. *Dorsey*, 379 U.S. 433; *Davis* v. *Mann*, 377 U.S. 678; and *Crawford City Bar Assn* v. *Faubus and Alexander* v. *Faubus*, 34 L.W. 3294, in the use of multi-county, multi-member and single-member districts.

Wherefore we respectfully submit that the plan be approved by this Honorable Court as meeting the Supreme Court standards for valid reapportionment in the State of Florida.

Earl Faircloth, Attorney General, Edward D. Cowart, Assistant Attorney General.

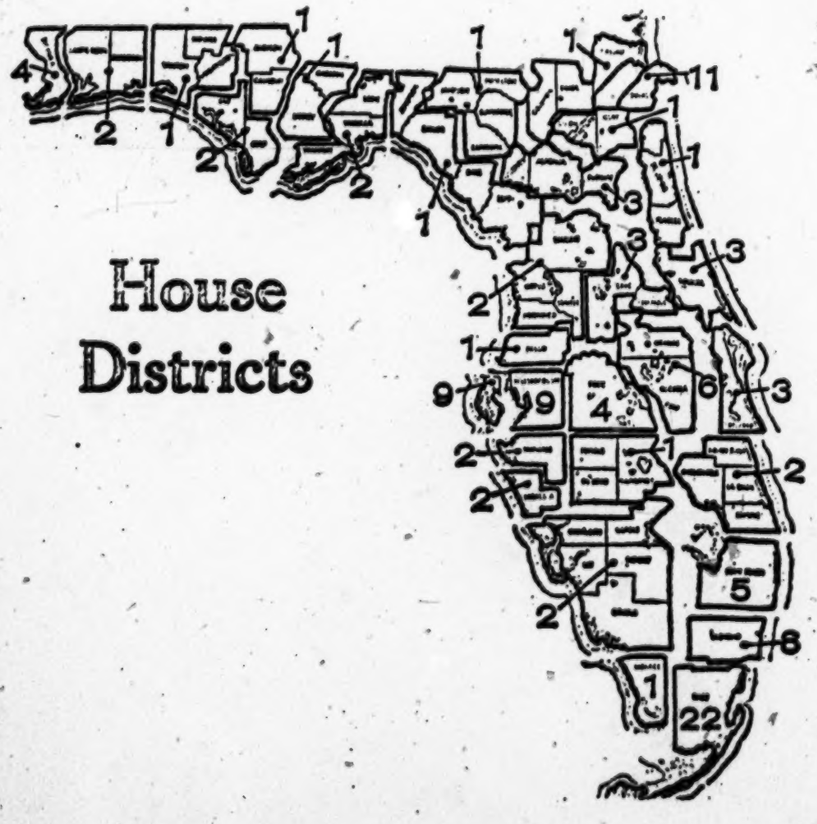
[fol. 28] Certificate of Service (omitted in printing).

Here Is New Distribution Of Florida's Legislature

TALLAHASSEE (AP)—Here is the distribution of seats by congressional districts under the 48-Senator, 117-Representative reapportionment plan that became law yesterday.

SENATE	HOUSE
1st Congressional District	
Escambia and Santa Rosa . 2	Escambia 4
Okaloosa, Walton and Holmes 1	Okaloosa and Santa Rosa .. 2
Washington, Bay and Gulf 1	Bay and Gulf 2
	Holmes, Washington and Walton 1
2nd Congressional District	
Jackson, Calhoun, Gadsden, Liberty, Franklin, Wakulla, Leon, Jefferson, Madison, Taylor, Dixie, Lafayette, Suwannee, Hamilton, Columbia, Gilchrist, Levy, Alachua, Putnam, Clay, Union, Bradford, Baker and Nassau 4	Jackson and Calhoun 1
	Gadsden and Liberty 1
	Leon, Wakulla and Franklin 2
	Jefferson, Taylor, Dixie and Levy 1
	Madison, Hamilton, Suwannee and Lafayette 1
	Gilchrist, Alachua and Putnam 3
	Union, Bradford and Clay . 1
	Columbia, Baker and Nassau 1
3rd Congressional District	
Duval 4	Duval 11
4th Congressional District	
St. Johns, Flagler, Volusia, Seminole, Lake, Osceola, Marion, Citrus, Hernando and Pasco 4	Citrus, Hernando, Marion and Sumter 2
	Flagler and St. Johns 1
	Lake and Seminole 3
	Pasco 1
	Volusia 3
	(Osceola tacked to Orange in 5th)
5th Congressional District	
Orange 3	Orange and Osceola 6
Brevard 1	Brevard 3
6th Congressional District	
Hillsborough 4	Hillsborough 9
7th Congressional District	
Manatee, Sarasota, Hardee, DeSoto and Highlands .. 2	DeSoto, Hardee and Highlands 1
Polk 2	Manatee 2
	Polk 4
	Sarasota 2
8th Congressional District	
Pinellas 4	Pinellas 9
9th Congressional District	
Indian River, Okeechobee, St. Lucie and Martin 1	Charlotte, Collier, Glades, Henry and Lee 2
Charlotte, Glades, Hendry, Lee and Collier 1	Indian River, Martin, Okeechobee and St. Lucie 2
Palm Beach 2	Palm Beach 5
10th Congressional District	
Broward 3	Broward 8
(North Dade added to 11th and 12th Districts)	
11th and 12th Congressional Districts	
Dade and Monroe, ... 9	Dade 22
	Monroe 1





[fol. 29]

EXHIBIT TO MOTION

43

43

[fol. 30] HB 17-X(66)
Final Passage
3/9/1966

A bill to be entitled

An act to provide for the apportionment of the membership of the senate and the house of representatives of the legislature of the state of Florida; prescribing terms of office of members of both houses; providing for continuance in office by members until the general election in November, 1966; providing for elections; providing effective dates.

Be It Enacted by the Legislature of the State of Florida:

Section 1. (1) The representation of the people of the state in the legislature of the state shall continue as now constituted until the general election to be held in November, 1966. Thereafter, the representation of the Florida legislature shall be as set forth in this law.

(2) The representation in the senate of the Florida legislature shall consist of 48 members representing districts and shall be apportioned as follows:

First District—Escambia and Santa Rosa counties.

Second District—Escambia and Santa Rosa counties.

Third District—Okaloosa, Walton and Holmes counties.

Fourth District—Bay, Washington and Gulf counties.

Fifth District—Alachua, Baker, Bradford, Calhoun, Clay, Columbia, Dixie, Franklin, Gadsden, Gilchrist, Hamilton, Jackson, Jefferson, Lafayette, Leon, Levy, Liberty, Madison, Nassau, Putnam, Suwannee, Taylor, Union and Wakulla counties.

Sixth District—Alachua, Baker, Bradford, Calhoun, Clay, Columbia, Dixie, Franklin, Gadsden, Gilchrist, Hamilton, Jackson, Jefferson, Lafayette, Leon, Levy, Liberty, Madison, Nassau, Putnam, Suwannee, Taylor, Union and Wakulla counties.

[fol. 31] Seventh District—Polk county. The senator elected from the seventh senatorial district in 1964 as it then existed shall serve as the senator from the seventh district until the general election of 1968.

Eighth District—Alachua, Baker, Bradford, Calhoun, Clay, Columbia, Dixie, Franklin, Gadsden, Gilchrist, Hamilton, Jackson, Jefferson, Lafayette, Leon, Levy, Liberty, Madison, Nassau, Putnam, Suwannee, Taylor, Union and Wakulla counties.

Ninth District—Duval county.

Tenth District—Duval county.

Eleventh District—Pinellas county.

Twelfth District—Indian River, Martin, St. Lucie and Okeechobee counties.

Thirteenth District—Dade and Monroe counties.

Fourteenth District—Citrus, Flagler, Hernando, Lake, Marion, Osceola, Pasco, St. Johns, Seminole, Sumter and Volusia counties.

Fifteenth District—Citrus, Flagler, Hernando, Lake, Marion, Osceola, Pasco, St. Johns, Seminole, Sumter and Volusia counties.

Sixteenth District—Citrus, Flagler, Hernando, Lake, Marion, Osceola, Pasco, St. Johns, Seminole, Sumter and Volusia counties.

Seventeenth District—Dade and Monroe counties.

Eighteenth District—Duval county.

[fol. 32] Nineteenth District—Orange county. The senator elected from the nineteenth senatorial district in 1964 as it then existed shall serve as the senator from the nineteenth district until the general election of 1968.

Twentieth District—Orange county.

Twenty-First District—Hillsborough county.

Twenty-Second District—Hillsborough county.

Twenty-Third District—Hillsborough county.

Twenty-Fourth District—Charlotte, Collier, Glades, Hendry and Lee counties.

Twenty-Fifth District—Alachua, Baker, Bradford, Calhoun, Clay, Columbia, Dixie, Franklin, Gadsden, Gilchrist, Hamilton, Jackson, Jefferson, Lafayette, Leon, Levy, Liberty, Madison, Nassau, Putnam, Suwannee, Taylor, Union and Wakulla counties.

Twenty-Sixth District—Polk county.

Twenty-Seventh District—DeSoto, Hardee, Highlands, Manatee and Sarasota counties.

Twenty-Eighth District—DeSoto, Hardee, Highlands, Manatee and Sarasota counties.

Twenty-Ninth District—Pinellas county.

Thirtieth District—Broward county.

Thirty-First District—Duval county.

Thirty-Second District—Pinellas county.

Thirty-Third District—Palm Beach county.

Thirty-Fourth District—Hillsborough county.

[fol. 33] Thirty-Fifth District—Palm Beach county. The senator elected from the thirty-fifth senatorial district in 1964 as it then existed shall serve as the senator from the thirty-fifth district until the general election of 1968.

Thirty-Sixth District—Orange county.

Thirty-Seventh District—Brevard county.

Thirty-Eighth District—Pinellas county.

Thirty-Ninth District—Broward county.

Fortieth District—Dade and Monroe counties.

Forty-First District—Citrus, Flagler, Hernando, Lake, Marion, Osceola, Pasco, St. Johns, Seminole, Sumter and Volusia counties.

Forty-Second District—Dade and Monroe counties. Such district shall consist of all of Monroe county and that part of Dade county which consists of precincts numbered 203, 205, 206, 207, 208, 209, 210, 235, 236, 237, 238, 320, 321, 322, 323, 324, 325 and 326, as they existed and were on file in the office of the secretary of state as of March 2, 1966, and any changes in the precinct boundaries, after March 2, 1966, shall not affect the senatorial district herein created, unless approved by the legislature in a subsequent reapportionment plan. The senator representing the forty-second district shall reside in and be a duly qualified elector of the forty-second district and shall be elected by the people of Dade and Monroe counties.

Forty-Third District—Dade and Monroe counties.

Forty-Fourth District—Dade and Monroe counties.

Forty-Fifth District—Dade and Monroe counties.

Forty-Sixth District—Dade and Monroe counties.

[fol. 34] Forty-Seventh District—Dade and Monroe counties.

Forty-Eighth District—Broward county.

(3) The senatorial offices herein created by Section 1 of this act and designated by an even numbered senatorial district number shall be filled at the general election of

1966 for a four (4) year term. The senatorial offices herein created by Section 1 of this act and designated by an odd numbered senatorial district number, except as otherwise provided herein, shall be filled at the general election of 1966 for a two (2) year term ending at the general election of 1968 and thereafter for four (4) year terms. All senators, except as herein provided, and except when vacancies are to be filled for unexpired terms, shall be elected for four (4) year terms.

Section 2. A candidate for the office of state senator shall have been a bona fide resident of the district from which he qualifies for a period of at least six (6) months prior to the qualifying date.

Section 3. (1) The house of representatives of the Florida legislature shall consist of one hundred seventeen (117) members apportioned among the counties according to the latest federal decennial census of population. Until reapportioned according to the census of 1970 the representation in the house of representatives shall be apportioned as follows:

[fol. 35]

County or Counties	*Number of Members*
Bay and Gulf	2
Escambia	4
Holmes, Walton and Washington	1
Okaloosa and Santa Rosa	2
Jackson and Calhoun	1
Gadsden and Liberty	1
Leon, Wakulla, Franklin	2
Jefferson, Dixie, Taylor, Levy	1
Hamilton, Suwannee, Madison, Lafayette	1
Gilchrist, Putnam, Alachua	3
Union, Bradford, Clay	1
Nassau, Baker, Columbia	1
Duval	11

County or Counties	*Number of Members*
Citrus, Hernando, Marion, Sumter	2
Flagler, St. Johns	1
Lake, Seminole	3
Pasco	1
Volusia	3
Brevard	3
Orange, Osceola	6
Hillsborough	9
DeSoto, Hardee, Highlands	1
Manatee	2
Polk	4
Sarasota	2
Pinellas	9
Charlotte, Collier, Glades, Hendry, Lee	2
Indian River, Martin, Okeechobee, St. Lucie	2
Palm Beach	5
Broward	8
Dade	22
Monroe	1

[fol. 36] (2) Members of the house shall be qualified electors of, reside in and be elected at large by the qualified electors in the county or multi-county districts for which they are chosen unless otherwise provided herein; provided, that in the multi-county district of Lake and Seminole one representative shall be a resident of Lake county and one member shall be a resident of Seminole county and the other representative shall be a resident of either county; provided that in any multi-county legislative district having two members, with one county thereof having a population in excess of 39,000 and the aggregate population of the remaining counties is in excess of 39,000, one member shall reside in the largest county, and one member shall reside in any one of the remaining counties.

Section 4. Members of the house of representatives are to be elected for two (2) years.

(a) The senatorial offices herein created by Section 1 of this act and designated by an even numbered senatorial district number shall be filled at the general election of 1966 for a four (4) year term. The senatorial offices herein created by Section 1 of this act and designated by an odd numbered senatorial district number, except as otherwise provided herein, shall be filled at the general election of 1966 for a two (2) year term ending at the general election of 1968 and thereafter for four (4) year terms. All senators, except as herein provided, and except when vacancies are to be filled for unexpired terms, shall be elected for four (4) year terms.

[fol. 37] Section 5. The provisions of this act are severable and if any word, sentence, paragraph, subsections or sections of the act shall for any reason be held void or unconstitutional by any court of competent jurisdiction, the decision of said court shall not affect or impair the validity of any of the remaining words, sentences, paragraphs, subsections or sections of this act.

Section 6. Candidates for offices created herein shall be nominated in 1966 in the manner provided by law and the offices shall be filled at the general election in November, 1966.

Section 7. For the purposes of conducting the elections and creating the offices to be filled by this act, this act shall take effect immediately upon becoming a law; but for the purposes of repeal of the law providing for the apportionment of the legislature under chapter 10, Florida Statutes, as it existed on June 1, 1965, this act shall take effect on the Tuesday after the first Monday, November, 1966.

[fol. 38]

HOUSE OF REPRESENTATIVES

COUNTY		INCUMBENT
ALACHUA-GILCHRIST-PUTNAM (3)		
	Group 1	
	Group 2	
	Group 3	
BAKER-COLUMBIA-NASSAU (1)		
	———	
BAY-GULF (2)		
	Group 1	
	Group 2	
BRADFORD-CLAY-UNION (1)		
	———	
BREVARD (3)		
	Group 1	
	Group 2	
	Group 3	
BROWARD (8)		
	Group 1	
	Group 2	
	Group 3	
	Group 4	
	Group 5	
	Group 6	
	Group 7	
	Group 8	
CALHOUN-JACKSON (1)		
	———	
CHARLOTTE-COLLIER-GLADES-HENDRY-LEE (2)		
	Group 1	(LEE RESIDENT)
	Group 2	(OTHER COUNTY RESIDENT)
CITRUS-HERNANDO-MARION-SUMTER (2)		
	Group 1	
	Group 2	

CLAY (See Bradford)

COLLIER (See Charlotte)

COLUMBIA (See Baker)

DADE (22)

Group 1
Group 2
Group 3
Group 4
Group 5
Group 6
Group 7
Group 8
Group 9
Group 10
Group 11
Group 12
Group 13
Group 14
Group 15
Group 16
Group 17
Group 18
Group 19
Group 20
Group 21
Group 22

[fol. 39]

DESOTO-HARDEE-HIGHLANDS (1) _____

DIXIE-JEFFERSON-LEVY-TAYLOR (1) _____

DUVAL (11)

Group 1
Group 2
Group 3
Group 4
Group 5

Group 6
Group 7
Group 8
Group 9
Group 10
Group 11

ESCAMBIA (4)
Group 1
Group 2
Group 3
Group 4

FLAGLER-ST. JOHNS (1)

FRANKLIN-LEON-WAKULLA (2)
Group 1
Group 2

GADSEN-LIBERTY (1)

GILCHRIST (See Alachua)

GLADES (See Charlotte)

GULF (See Bay)

HAMILTON-LAFAYETTE-MADISON-SUWANNEE (1)

HARDEE (See DeSoto)

HENDRY (See Charlotte)

HERNANDO (See Citrus)

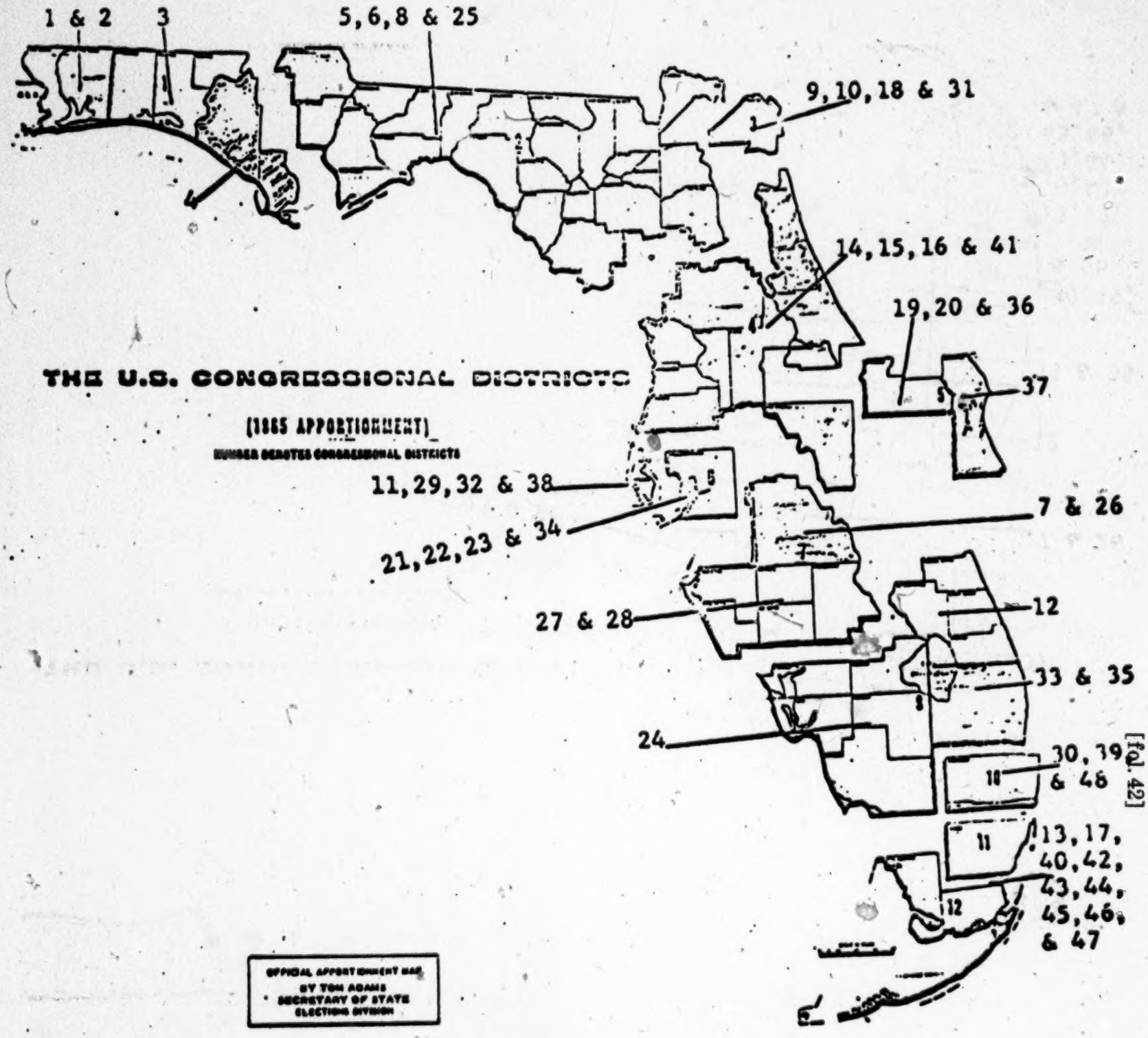
HIGHLANDS (See DeSoto)

HILLSBOROUGH (9)
Group 1
Group 2
Group 3
Group 4
Group 5
Group 6
Group 7

	Group 8	
	Group 9	
HOLMES-WALTON-WASHINGTON (1)	———	
INDIAN RIVER-MARTIN-OKEECHOBEE-ST. LUCIE (2)		
	Group 1	(ST. LUCIE RESIDENT)
	Group 2	(ANY COUNTY RESIDENT)
JACKSON (See Calhoun)		
[fol. 40]		
JEFFERSON (See Dixie)		
LAFAYETTE (See Hamilton)		
LAKE-SEMINOLE (3)	Group 1	(LAKE RESIDENT)
	Group 2	(SEMINOLE RESIDENT)
	Group 2	(EITHER COUNTY RESIDENT)
LEE (See Charlotte)		
LEON (See Franklin)		
LEVY (See Dixie)		
LIBERTY (See Gadsden)		
MADISON (See Hamilton)		
MANATEE (2)	Group 1	
	Group 2	
MARION (See Citrus)		
MARTIN (See Indian River)		
MONROE (1)	———	
NASSAU (See Baker)		
OKALOOSA—SANTA ROSA (2)	Group 1	
	Group 2	

OKEECHOBEE (See Indian River)	
ORANGE-OSCEOLA (6)	Group 1
	Group 2
	Group 3
	Group 4
	Group 5
	Group 6
OSCEOLA (See Orange)	
PALM BEACH (5)	Group 1
	Group 2
	Group 3
	Group 4
	Group 5
PASCO (1)	———
PINELLAS (9)	Group 1
	Group 2
	Group 3
	Group 4
	Group 5
	Group 6
	Group 7
	Group 8
	Group 9
[fol. 41]	
POLK (4)	Group 1
	Group 2
	Group 3
	Group 4
PUTNAM (See Alachua)	
ST. JOHNS (See Flagler)	
ST. LUCIE (See Indian River)	

SANTA ROSA (See Okaloosa)	
SARASOTA (2)	Group 1
	Group 2
SEMINOLE (See Lake)	
SUMTER (See Citrus)	
SUWANNEE (See Hamilton)	
TAYLOR (See Dixie)	
UNION (See Bradford)	
VOLUSIA (3)	Group 1
	Group 2
	Group 3
WAKULLA (See Franklin)	
WALTON (See Holmes)	
WASHINGTON (See Holmes)	



[fol. 42]

48 SENATOR PLAN

48 Senatorial Districts

Maximum population - variance ratio 1.30 - 1

48.61 % of the population elects 50 % of the Senate

Senatorial District	Counties	Number of Sen.	Total Population	Avg. population per Senator	% Variation Under Average	% Variation Over Average
1,2	Escambia & Santa Rosa	2	203,376	101,688	1.46	
3	Okaloosa, Walton & Holmes	1	87,595	87,595	15.09	
4	Washington, Bay & Gulf	1	88,317	88,317	14.39	
5,6,8,25	Jackson, Calhoun Gadsden, Liberty, Franklin, Wakulla, Leon, Jefferson, Madison, Taylor, Dixie, Lafayette, Suwannee, Hamilton, Columbia, Gilchrist, Levy, Alachua, Putnam, Clay, Union, Bradford, Baker & Nassau	4	443,885	110,971		7.57
9,10,18,31	Duval	4	455,411	113,853		10.37
14,15,16 41	St.Johns, Flagler, Volusia, Seminole, Lake, Osceola, Sumter, Marion, Citrus, Hernando,& Pasco	4	412,021	103,005	0.15	
19,20,36	Orange	3	263,540	87,847	14.84	
37	Brevard	1	111,435	111,435		8.02
11,29,32, 38	Pinellas	4	374,665	93,666	9.20	
21,22,23, 34	Hillsborough	4	397,788	99,447	3.60	
27,28	Manatee, Sarasota, Hardee, DeSoto,& Highlands	2	191,454	95,727	7.20	
7,26	Polk	2	195,139	97,570	5.42	
12	Indian River, Okeechobee, St. Lucie & Martin	1	87,959	87,959	14.73	

[fol. 43]

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1

[fol. 44]

Senatorial District	Counties	Number of Sen.	Total Population	Avg. population per Senator	% Variation Under Average	% Variation Over Average
24	Charlotte, Glades Hendry, Lee & Collier	1	93,955	93,955	8.92	
33,35	Palm Beach	2	228,106	114,053		10.56
30,39,48	Broward	3	333,946	111,315		7.91
13,17,40, 42,43,44 45,46,47	Dade & Monroe	9	982,968	109,219		5.88
	TOTALS	48	4,951,560	103,158		
	15% below average			87,684		
	15% above average			118,632		

(32 Election Districts)

117 Member House = 42,321 Average

15% of Average = 6,348

15% Population Variance	
Min.	Max
35,973	48,669

Pop. Dist. = High 48,735 / Low 34,584 = 1.41 to 1 Population Variance Ratio

50.43% of the population elects 50.43% of the House

Percent Variance	County or Counties	Number of Members	Population	Average Population per Member
-8.95	Bay and Gulf	2	77,068	38,534
2.68	Escambia	4	173,829	43,457
-10.99	Holmes, Walton and Washington	1	37,669	37,669
7.18	Okaloosa and Santa Rosa	2	90,722	45,361
3.09	Jackson and Calhoun	1	43,630	43,630
6.63	Gadsden and Liberty	1	45,127	45,127
1.67	Leon, Wakulla, Franklin	2	86,058	43,029
-11.27	Jefferson, Dixie, Taylor, Levy	1	37,554	37,554
-6.17	Hamilton, Suwannee, Madison, Lafayette	1	39,709	39,709
-14.03	Gilchrist, Putnam, Alachua	3	109,154	36,385
-10.15	Union, Bradford, Clay	1	38,024	38,024
5.45	Nassau, Baker, Columbia	1	44,629	44,629
-2.17	Duval	11	455,411	41,401
-0.81	Citrus, Hernando, Marion, Sumter	2	83,958	41,979
-18.24	Flagler, St. Johns	1	34,600	34,600
-11.53	Lake, Seminole	3	112,330	37,443
-13.08	Pasco	1	36,785	36,785
-1.29	Volusia	3	125,319	41,773
-12.23	Brevard	3	111,435	37,145
11.28	Orange, Osceola	6	282,569	47,095
4.44	Hillsborough	9	397,788	44,199
7.25	DeSoto, Hardee, Highlands	1	45,391	45,391
-18.28	Manatee	2	69,168	34,584
15.27	Polk	4	195,139	48,785
-9.15	Sarasota	2	76,895	38,448
-1.64	Pinellas	9	374,665	41,629
11.00	Charlotte, Collier, Glades, Hendry, Lee	2	93,955	46,978
3.92	Indian River, Martin, Okeechobee, St. Lucie	2	87,959	43,980
7.80	Palm Beach	5	228,106	45,621
-1.37	Broward	8	333,946	41,743
0.43	Dade	22	935,047	42,502
18.23	Monroe	1	47,921	47,921
	2 TOTAL (1961)		4,951,560	

[fol. 45]

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[fol. 46]
HB 23-X(66)
Final Passage
3/9/1966

A bill to be entitled

An act relating to elections; amending Section 100.071, Florida Statutes; providing for the grouping of candidates for the legislature from the same election district; providing for an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 100.071, Florida Statutes, is amended to read:

100.071 *Grouping of candidates on primary ballots.*—

(1) Where two or more similar offices are to be filled in the same election, the names of candidates are placed or printed upon the ballot or voting machine in groups; that is, if two or more places on the supreme court, or two or more members of the legislature from the same election district are to be elected, then the candidates' names are placed or printed on the ballot or voting machines in groups, such as group 1, group 2, group 3 as the case may be.

The name of the office shall be printed over each numbered group and each numbered group clearly separated from the next numbered group, the same as in the case of single offices, so as to emphasize the necessity of voting for one candidate in each of the numbered groups.

(2) Nominees of recognized political parties chosen in primaries are in the same numbered group on the general [fol. 47] election ballot in which their names appeared on the primary election ballot.

Section 2. This act shall take effect immediately upon becoming a law.

[fol. 48]
CSHB 24-X(66)
Final Passage
3/9/1966

A bill to be entitled

An act relating to elections; declaring previous qualifications to be null and void; establishing qualifying dates for candidates for nomination to legislative offices to be filled in the 1966 elections; providing for the qualifying fees; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. All qualifications filed with the secretary of state by candidates for the nomination of any recognized political party for offices of state senator and member of the state house of representatives under the plan of apportionment set out in Chapter 65-2440, Laws of Florida, 1965, for the 1966 elections are hereby declared to be null and void and of no force and effect. The secretary of state shall immediately return to all such candidates who qualified with him all qualification fees and party assessments. Any contributions or expenditures made to or by a candidate for nomination under the aforesaid qualification shall, if valid at the time it was made, not be rendered invalid by the adoption of this act or any plan of apportionment subsequent to Chapter 65-2440, Laws of Florida, 1965. Any candidate qualifying under a plan of apportionment subsequent to Chapter 65-2440, Laws of Florida, 1965, who, by virtue of his previous qualification, has received such contributions or incurred such expenditures shall report them in the manner prescribed by Section 99.021(1)(k), Florida

Statutes, at the time he qualifies under such later plan or act.

Section 2. Notwithstanding the provisions of Section [fol. 49] 99.061(1), Florida Statutes, 1965, candidates for nomination of any recognized political party for offices of state senator and member of the state house of representatives in the 1966 elections only under a plan of apportionment adopted subsequent to Chapter 65-2440, Laws of Florida, 1965, are required to file with the secretary of state their qualification papers, pay the qualification fees, and party assessment, at any time after noon of the day following the effective date of such act providing for the apportionment of the membership of the legislature of the state of Florida but not later than noon of March 18, 1966.

Section 3. The provisions of this act shall apply only to candidates for nomination to legislative office in the 1966 elections and shall supersede the election code only where inconsistent therewith. This act shall not be printed in the Florida Statutes, prepared by the Statutory Revision Department of the Attorney General's office.

Section 4. This act shall take effect immediately upon becoming law.

[fol. 50]

IN THE UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF FLORIDA

[Title omitted]

SUGGESTED MODIFICATION TO THE PLAN OF APPORTIONMENT CONTAINED IN HB 17-X ENACTED BY THE LEGISLATURE ON MARCH 9, 1966—Filed March 15, 1966

The Plaintiff and the Defendant Supervisor of Elections of Dade County, Florida, respectfully submit the following modifications to the plan of legislative apportionment contained in HB 17-X enacted by the Legislature of the State of Florida on March 9, 1966, to the Court for consideration:

SENATE

Districts	Plan Adopted by Legislature				Suggested Modification			
	Counties	Population	No. of Senators	Deviation	Counties	Population	No. of Senators	Deviation
1, 2	Escambia Santa Rosa	203,376	2	+1.4	No change			
3	Okaloosa Walton Holmes	87,595	1	+15.1	Okaloosa Walton Holmes Washington	98,844	1	+4.2
4	Bay Washington Gulf	88,317	1	+14.4	Bay Gulf Calhoun Liberty Franklin	94,204	1	+8.7

[File endorsement omitted]

SENATE - continued

Districts	Plan Adopted by Legislature				Suggested Modification			
	Counties	Population	No. of Senators	Deviation	Counties	Population	No. of Senators	Deviation
5, 6, 8, 25	Alachua Baker Bradford Calhoun Clay Columbia Dixie Franklin Gadsden Gilchrist Hamilton Jackson Jefferson Lafayette Leon Levy Liberty Madison Nassau Putnam Suwannee Taylor Union Wakulla	443,885	4	- 7.6	Alachua Baker Bradford Clay Columbia Dixie Gadsden Gilchrist Hamilton Jackson Jefferson Lafayette Leon Levy Madison Nassau Putnam Suwannee Taylor Union Wakulla	426,749	4	- 3.4
7, 26	Polk	195,139	2	+ 5.4	No Change			
9, 10, 18, 31	Duval	455,411	4	- 10.4	No Change			
11, 29 32, 38	Pinellas	374,665	4	+9.2	No Change			
12	Indian River Martin St. Lucie Okeechobee	87,959	1	+14.7	Indian River Martin St. Lucie Glades Hendry	92,704	1	+10.1
13, 17, 40, 42, 43 44, 45, 46, 47	Dade Monroe	982,968	9	- 5.9	No Change			

[fol. 51]

SENATE - continued

Districts	Plan Adopted by Legislature				Suggested Modification			
	Counties	Population	No. of Senators	Deviation	Counties	Population	No. of Senators	Deviation
14, 15, 16, 41	Citrus Flagler Hernando Lake Marion Osceola Pasco St. Johns Seminole Sumter Volusia	412,021	4	+ 0.1	Citrus Flagler Hernando Lake Marion Pasco St. Johns Seminole Sumter Volusia	392,992	4	+ 4.8
19,20,36	Orange	263,540	3	+14.8	Orange Osceola	282,569	3	+ 8.7
21, 22, 23, 34	Hillsborough	397,788	4	+ 3.6	No Change			
24	Charlotte Collier Glades Hendry Lee	93,955	1	+ 8.9	Charlotte Collier Lee DeSoto	94,569	1	+ 8.3
27, 28	DeSoto Hardee Highlands Manatee Sarasota	191,454	2	+ 7.2	Hardee Highlands Manatee Sarasota Okeechobee	186,189	2	+ 9.8
30,39,48	Broward	333,946	3	- 7.9	No Change			
33, 35	Palm Beach	228,106	2	- 10.6	No Change			
37	Brevard	111,435	1	- 8.0	No Change			

[fol. 52]

The suggested modifications reduce the maximum single deviation from complete mathematical equality from 15.1 percent to 10.6 percent.

The map attached hereto as Exhibit A reflects both the plan of Senate apportionment contained in HB 17-X and the modifications suggested above.

HOUSE OF REPRESENTATIVES

Plan Adopted by Legislature				Suggested Modification			
Counties	Population	No. of Representatives	Deviation	Counties	Population	No. of Representatives	Deviation
Bay Gulf	77,068	2	+8.9	No Change		2	
Escambia	173,859	4	-2.7	No Change		4	
Holmes Walton Washington	37,669	1	+11.0	No Change		1	
Okaloosa Santa Rosa	90,722	2	- 7.2	No Change		2	
Jackson Calhoun	43,630	1	- 3.1	No Change		1	
Gadsden Liberty	45,127	1	- 6.6	See below			
Leon Wakulla Franklin	86,058	2	- 1.7	Gadsden Liberty Leon Franklin	125,928	3	+ 0.8
Jefferson Dixie Taylor Levy	37,504	1	+11.3	Jefferson Wakulla Taylor Madison	42,122	1	+ 0.5
Hamilton Suwannee Madison Lafayette	39,709	1	+6.2	Hamilton Suwannee Columbia	42,743	1	- 1.0
Gilchrist Putnam Alachua	109,154	3	+14.0	Alachua Marion	125,690	3	+ 1.0
Union Bradford Clay	38,024	1	+10.2	Union Bradford Baker Nassau	43,041	1	- 1.7

[fol. 53]

HOUSE OF REPRESENTATIVES - continued

Plan Adopted by Legislature				Suggested Modification			
Counties	Population	No. of Representatives	Deviation	Counties	Population	No. of Representatives	Deviation
Nassau Baker Columbia	44,629	1	— 5.5	See above			
Duval	455,411	11	+ 2.2	No Change		11	
Citrus Hernando Marion Sumter	83,958	2	+ 0.8	See below			
Pasco	36,785	1	+ 13.1	Pasco Levy Gilchrist Lafayette Dixie Citrus Hernando	77,858	2	+ 8.0
Flagler St. Johns	34,600	1	+ 18.2	Flagler St. Johns Clay Putnam	86,347	2	— 2.0
Lake Seminole	112,330	3	+ 11.5	Lake Seminole Sumter	124,199	3	+ 2.2
Volusia	125,319	3	+ 1.3	No change		3	
Brevard	111,435	3	+ 12.2	Brevard Osceola	130,464	3	— 2.8
Orange Osceola	282,569	6	— 11.3	Orange	263,540	6	— 3.8
Hillsborough	397,788	9	— 4.4	No change		9	
DeSoto Hardee Highlands	45,391	1	— 7.3	DeSoto Lee Charlotte	78,816	2	+ 6.9
Manatee	69,168	2	+ 18.3	Manatee Hardee	81,538	2	+ 3.7

[fol. 54]

HOUSE OF REPRESENTATIVES - continued

Plan Adopted by Legislature				Suggested Modification			
Counties	Population	No. of Representatives	Deviation	Counties	Population	No. of Representatives	Deviation
Polk	195,139	4	— 15.3	Polk Highlands	216,477	5	— 2.3
Sarasota	76,889	2	+ 9.2	No change		2	
Pinellas	374,665	9	+ 1.6	No change		9	
Charlotte Collier Glades Hendry Lee	93,955	2	- 11.0	Collier Glades Hendry Okeechobee Monroe	81,167	2	+ 4.1
Monroe	47,921	1	— 13.2	See above			
Indian River, Martin Okeechobee St. Lucie	87,959	2	— 3.9	Indian River, Martin St. Lucie	81,635	2	+ 3.6
Palm Beach	228,106	5	— 7.8	No change		5	
Broward	333,946	8	+ 1.4	No change		8	
Dade	935,047	22	— 0.4	No change		22	

[fol. 55]

The suggested modifications reduce the maximum single deviation from complete mathematical equality from 18.3 percent to 11 percent.

The map attached hereto as Exhibit B reflects both the plan of apportionment of seats in the House of Representatives contained in HB17-X and the modifications suggested above.

[fol. 56] It is respectfully suggested that the three Senate "grandfathering" provisions be deleted.

It is respectfully suggested that the residence requirement pertaining to the 42nd Senatorial District (Dade and Monroe) be deleted.

It is respectfully suggested that the residence requirements contained in Section 3(2) of HB 17-X be deleted.

THOMAS C. BRITTON
Dade County Attorney
Attorney for the Supervisor of
Elections of Dade County, Florida
1626 Dade County Courthouse
Miami, Florida 33131

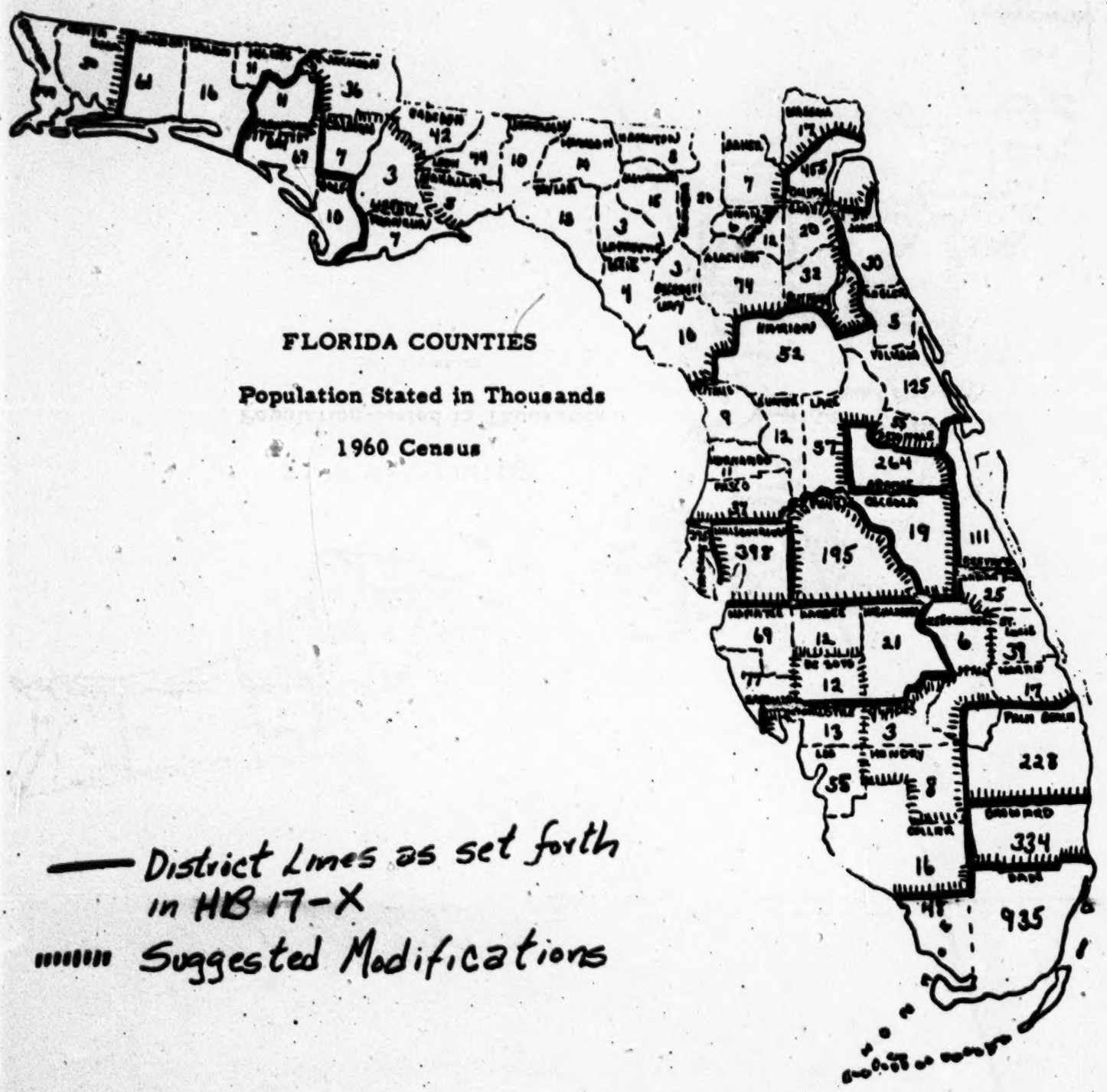
By /s/ STUART L. SIMON
Stuart L. Simon
Assistant County Attorney

PAUL & SAMS
Attorneys for the Plaintiff
1314 First National Bank Building
Miami, Florida 33131

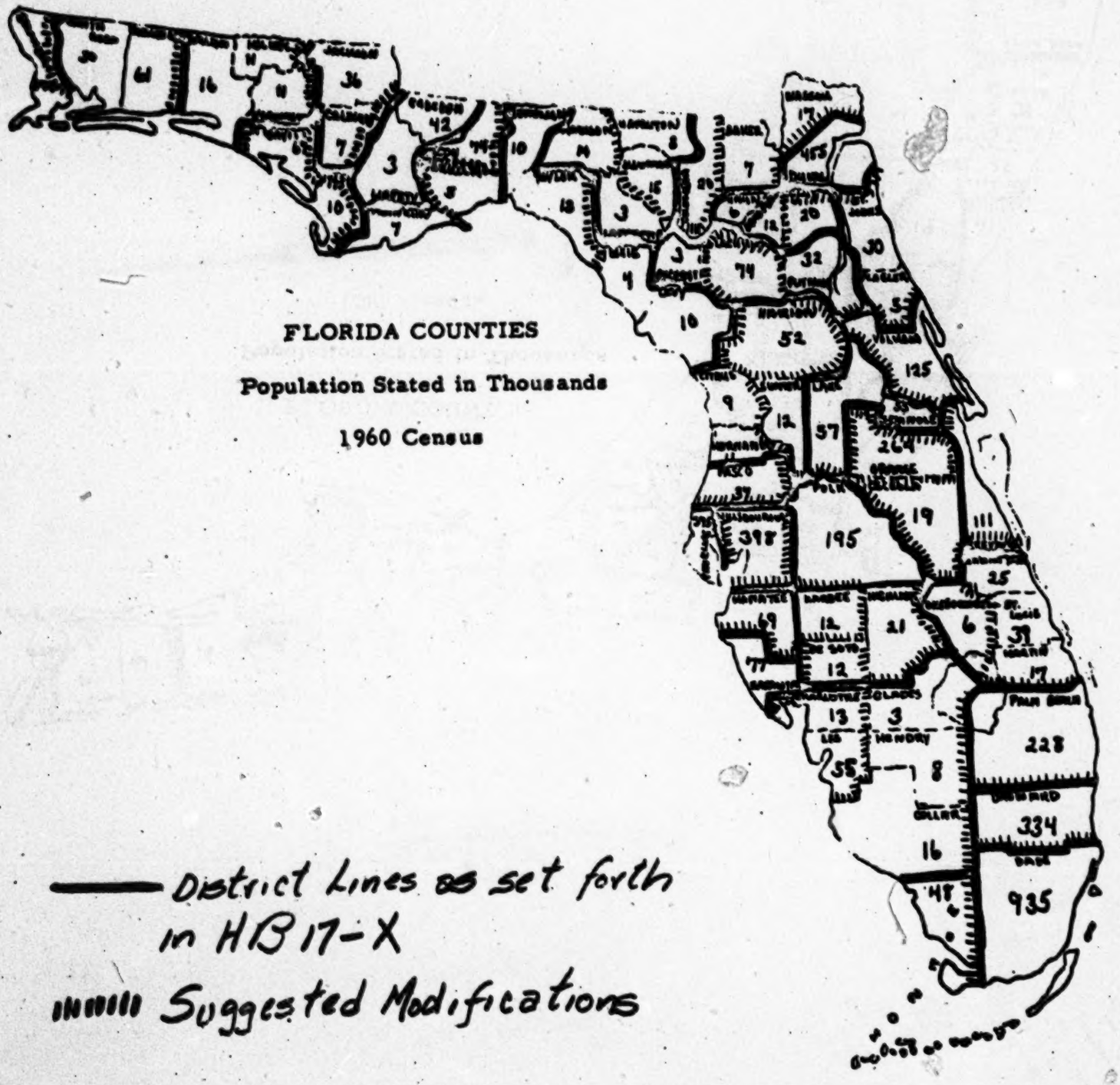
By /s/ DAN P. S. PAUL
Dan P. S. Paul

Certificate of Service (omitted in printing).

Apportionment of Florida Senate Under HB 17-X



Apportionment of Florida House of Representatives
Under HB 17-X



[fol. 59]

IN THE UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF FLORIDA

[Title omitted]

ANALYSIS OF HB 17-X AS ENACTED BY THE LEGISLATURE OF THE STATE OF FLORIDA ON MARCH 9, 1966—Filed March 15, 1966

The Plaintiff and the Defendant, Supervisor of Elections of Dade County, Florida, respectfully submit the following analysis of HB 17-X as enacted by the Legislature of the State of Florida on March 9, 1966 to the Court:

I

SENATE OF 48 DISTRICTS

Districts	County or Counties	No. of Senators	No. of Persons Who Ought to be Represented by the No. of Senators, Assuming Mathematically Equal Representation of all Persons	Actual Population Represented (1960 Census)	Difference between Mathematically Equal Population & Actual Population	
					In No. of Persons	As a % of Over or Under Representation
1, 2	Escambia Santa Rosa	2	206,316	203,376	2,940	1.4% over
3	Okaloosa, Walton, Holmes	1	103,158	87,595	15,563	15.1% over
4	Bay, Washington, Gulf	1	103,158	88,317	14,841	14.4% over

[File endorsement omitted]

5, 6, 8, 25	Alachua, Baker, Bradford, Calhoun, Clay, Columbia, Dixie, Franklin, Gadsden, Gilchrist, Hamilton, Jackson, Jefferson, Lafayette, Leon, Levy, Liberty, Madison, Nassau, Putnam, Suwannee, Taylor, Union, Wakulla	4	412,632	443,885	31,253	7.5% under
7, 26	Polk	2	206,316	195,139	11,177	5.4% over
9, 10, 18, 31	Duval	4	412,632	455,411	42,779	10.4% under
11, 29, 32, 38	Pinellas	4	412,632	374,665	37,967	9.2% over
12	Indian River, Martin, St. Lucie, Okeechobee	1	103,158	88,059	15,099	14.7% over
13, 17, 40, 42, 43, 44, 45, 46, 47,	Dade, Monroe	9	928,422	982,968	54,546	5.9% under
14, 15, 16, 41	Citrus, Flagler, Hernando, Lake, Marion, Osceola, Pasco, St. Johns, Seminole, Sumter, Volusia	4	412,632	412,021	611	0.1% over
19, 20, 36,	Orange	3	309,464	263,540	45,934	14.8% over
21, 22, 23, 34	Hillsborough	4	412,632	397,788	14,844	3.6% over
24	Charlotte Collier, Glades, Hendry, Lee	1	103,158	93,955	9,203	8.9% over

[fol. 60]

27, 28	Desoto, Hardee, Highlands, Manatee, Sarasota	2	206,316	191,448	14,868	7.2% over
30, 39, 48	Broward	3	309,474	333,946	24,472	7.9% under
33, 35	Palm Beach	2	206,316	228,106	21,790	10.6% under
37	Brevard	1	103,158	111,435	8,277	8.0% under

II

HOUSE OF REPRESENTATIVES OF 117 MEMBERS

County or Counties	No. of House Members	No. of Persons Who Ought to be Represented by the No. of Members, Assuming Mathematically Equal Representation of all Persons	Actual Population Represented (1960 Census)	Difference between Mathematically Equal Population & Actual Population	
				In No. of Persons	As a % of Over or Under Representation
Bay, Gulf	2	84,642	77,068	7,574	8.9% over
Escambia	4	169,284	173,829	4,545	2.7% under
Holmes, Walton, Washington	1	42,321	37,669	4,652	11.0% over
Okaloosa, Santa Rosa	2	84,642	90,722	6,080	7.2% under
Jackson, Calhoun	1	42,321	43,630	1,309	3.1% under
Gadsden, Liberty	1	42,321	45,127	2,806	6.6% under
Leon, Wakulla, Franklin	2	84,642	86,058	1,416	1.7% under
Jefferson, Dixie, Taylor, Levy	1	42,321	37,554	4,767	11.3% over
Hamilton, Suwannee Madison, Lafayette	1	42,321	39,709	2,612	6.2% over
Gilchrist, Putnam, Alachua	3	126,963	109,154	17,809	14.0% over
Union, Bradford, Clay	1	42,321	38,024	4,297	10.2% over
Nassau, Baker, Columbia	1	42,321	44,629	2,308	5.5% under

[fol. 61]

Duval	11	465,531	455,411	10,120	2.2% over
Citrus, Hernando, Marion, Sumter	2	84,642	83,958	684	0.8% over
Flagler, St. Johns	1	42,321	34,600	7,721	18.2% over
Lake, Seminole	3	126,963	112,330	14,633	11.5% over
Pasco	1	42,321	36,785	5,536	13.1% over
Volusia	3	126,963	125,319	1,644	1.3% over
Brevard	3	126,963	111,435	15,528	12.2% over
Orange, Osceola	6	253,926	282,569	28,643	11.3% under
Hillsborough	9	380,889	397,788	16,899	4.4% under
DeSoto, Hardee, Highlands	1	42,321	45,391	3,070	7.3% under
Manatee	2	84,642	69,168	15,474	18.3% over
Polk	4	169,284	195,139	25,855	15.3% under
Sarasota	2	84,642	76,889	7,753	9.2% over
Pinellas	9	380,889	374,665	6,224	1.6% over
Charlotte, Collier, Glades, Hendry, Lee	2	84,642	93,955	9,313	11.0% under
Indian River, Martin, Okeechobee, St. Lucie	2	84,642	88,059	3,417	4.0% under
Palm Beach	5	211,605	228,106	16,501	7.8% under
Broward	8	338,568	333,946	4,622	1.4% over
Dade	22	931,062	935,047	3,985	0.4% under
Monroe	1	42,321	47,921	5,600	13.2% under

[fol. 62]

PAUL & SAMS
Attorneys for the Plaintiff
1314 First National Bank Building
Miami, Florida 33131

By D P S Paul
Dan P. S. Paul

THOMAS C. BRITTON
Dade County Attorney
Attorney for the Supervisor of
Elections of Dade County, Florida
1626 Dade County Courthouse
Miami, Florida 33130

By Stuart L. Simon
Stuart L. Simon
Assistant County Attorney

[fol. 63] Certificate of Service (omitted in printing).

[fol. 64]

IN THE UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF FLORIDA

MIAMI DIVISION

No. 186-62-M-Civil-DD

RICHARD H. M. SWANN, Plaintiff,

v.

TOM ADAMS, Secretary of State of the State of Florida, et al., Defendants.

Before Jones, Circuit Judge, and McRae and Dyer, District Judges.

PER CURIAM—March 18, 1966

Following the order of the United States Supreme Court that a valid reapportionment plan be made effective for the 1966 elections, see Swann v. Adams, 34 U.S.L. Week 3291 (U.S. Feb. 25, 1966), the Florida Legislature met in special session in March 1966 and passed a 48-senator, 117-representative plan. The state urges this court to accept that plan, arguing that it meets in all respects the federal constitutional one-man, one-vote requirement laid down in Reynolds v. Sims, 377 U.S. 533 (1964).

Plaintiff's major contention is that the variations in population per representative and senator are too great. Mathematical exactness or precision is not required, of course, but apportionment must be substantially on a popu-

[fol. 65] lation basis. Various tests have been used to analyze how close other plans have come to the ideal:

the percentage deviation of a district's population from the average population per district, the population ratio of the largest district to the smallest district in the state, and the minimum percentage of persons in the state represented by a majority of the legislature.

Applying these tests to the proposed Florida plan, we find that the senate districts range from 87,595 to 114,053 in population per senator, or from 15.09% overrepresented to 10.56% underrepresented, creating a ratio of 1.30:1 between the largest and smallest districts. The deviation from the average population per senator is greater than 15% in only 1 district and is greater than 10% in 11 other districts. The minimum percentage of persons that could elect a majority of 25 senators would be 48.38%.

The suggested house districts range from 34,584 to 48,785 in population per representative, or from 18.28% overrepresented to 15.27% underrepresented, creating a population ratio of 1.41:1. The deviation from the average is greater than 15% in 7 districts and is greater than 10% in 22 other districts. The minimum percentage of persons that could elect a majority of 58 representatives is 47.79%.

Taken individually these statistics mean little, but col- [fol. 66] lectively they tend to indicate that the legislature's proposed plan is constitutionally valid. Compare WMCA, Inc. v. Lomenzo, 238 F. Supp. 916 (S.D.N.Y.), *aff'd per curiam*, 382 U.S. 4 (1965). Such departures as there are from the ideal are not sufficient in number or great enough in percentages to require an upsetting of the legislative plan. More important, what deviation there is does not discriminate to any great extent against any section of the state or against either rural or urban interests.

Other aspects of the proposed plan also have come under attack. First, three senators would not be required to run for reelection in 1966, but would be allowed to finish their present terms, which expire in 1968. Since these senators were elected in districts that are identical in territory to their districts under the proposed plan, we find no federal constitutional infirmity in allowing these senators to be

continued in office. Second, one senate and six house seats are subject to residency requirements. We upheld such arrangements in a previous order and see no reason to reach any different result here. *Accord,* Fortson v. Dorsey, 379 U.S. 433 (1965). Finally, the proposed plan contains several multicounty, multirepresentative or multisenator districts. However unwise and undesirable these may be, we find nothing in their nature that violates the federal constitution. See Fortson v. Dorsey, *supra.*

An order will be entered herein in accordance with the present opinion.

[fol. 67]

IN THE UNITED STATES DISTRICT COURT

ORDER—March 18, 1966

It is, upon consideration,

Ordered and Adjudged:

The plan of apportionment of the Florida Legislature, as found in HB 17-X(66), enacted in March 1966, meets federal constitutional standards and is accepted by this court as the standard to be used in selecting members for the 1967 session of the Florida Legislature.

Done and Ordered this 18th day of March, 1966.

Warren L. Jones, United States Circuit Judge, William A. McRae, Jr., United States District Judge, David W. Dyer, United States District Judge.

[fol. 68]

IN THE UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF FLORIDA

MIAMI DIVISION

[Title omitted]

NOTICE OF APPEAL BY SUPERVISOR OF ELECTIONS TO THE SUPREME COURT OF THE UNITED STATES—Filed March 25, 1966

I

Notice is hereby given that the Supervisor of Elections of Dade County, Florida, previously known as the Supervisor of Registration of Dade County, Florida, and one of the above named defendants, hereby appeals to the Supreme Court of the United States from the Order of the United States District Court for the Southern District of Florida entered in this action on March 18, 1966 at 9:38 A. M. Aforesaid order declared the plan of apportionment of the Florida Legislature as enacted by that Legislature in Special Session on March 9, 1966 met federal constitutional [fol. 69] standards, and refused to enjoin the use of such plan in electing the membership of the 1967 session of the Florida Legislature.

This appeal is taken pursuant to 28 U. S. C., Sec. 1253.

II

The Clerk will please prepare a transcript of the record in this cause for certification to the Clerk of the Supreme Court of the United States, and include in said transcript the following:

[File endorsement omitted]

Papers Filed in Case No. 186-62-M (DD)

Name of Document	*Date of Filing*
1. All documents contained in the Record on Appeal already before the Supreme Court of the United States in Swann, et al., v. Adams, et al., Supreme Court No. 973, decided February 25, 1966	
2. Opinion of the Supreme Court of the United States in Swann, et al., v. Adams, et al., decided February 25, 1966	February 28, 1966
3. Joint Petition to Carry Out Order of United States Supreme Court with Exhibits A and B attached thereto	February 28, 1966
4. Order on Joint Petition	March 1, 1966
5. Judgment of the Supreme Court of the United States No. 973, October Term, 1965	March 7, 1966
6. Notice of Hearing	March 8, 1966
7. Motion to Adopt Reapportionment Plan, with HB 17-X(66) and Exhibits attached thereto	March 14, 1966
8. Analysis of HB 17-X As Enacted by the Legislature of the State of Florida on March 9, 1966	March 15, 1966
[fol. 70]	
9. Suggested Modifications to the Plan of Apportionment contained in HB 17-X Enacted by	

	Name of Document	*Date of Filing*
	the Legislature on March 9, 1966, with Exhibits A and B attached thereto	March 15, 1966
10.	Order Per Curiam	March 18, 1966
11.	Transcript of argument advanced to the Court on March 15, 1966	Still to be filed
12.	This Notice of Appeal	March 25, 1966
13.	The docket sheet reflecting all entries in this cause	

III

The following questions are presented by this appeal:

1. Does the refusal of the District Court to declare unconstitutional the plan of legislative apportionment contained in HB 17-X enacted by the Legislature of the State of Florida on March 9, 1966, to enjoin the use of such plan in subsequent elections to be held in the State of Florida, and to adopt a valid plan of apportionment for the election to be held for seats in the 1967 biennial session of the Florida Legislature or provide other appropriate relief, deny to the Plaintiff, persons represented by the Appellant, and all other citizens of Florida due process of law or equal protection of the law in violation of Section 1 of the Fourteenth Amendment of the Constitution of the United States?

2. Does the refusal of the District Court to declare unconstitutional and enjoin the reapportionment plan contained in HB 17-X enacted by the Legislature of the State [fol. 71] of Florida on March 9, 1966 in which certain counties are over-represented to the extent of 18.28 percent and certain other counties are under-represented to the extent of 15.27 percent in the House of Representatives, deny to

the Plaintiff, persons represented by the Appellant, and all other citizens of Florida due process of law or equal protection of the law in violation of Section 1 of the Fourteenth Amendment of the Constitution of the United States?

3. Does the refusal of the District Court to declare unconstitutional and enjoin the reapportionment plan contained in HB 17-X enacted by the Legislature of the State of Florida on March 9, 1966 in which certain counties are over-represented to the extent of 15.09 percent and certain other counties are under-represented to the extent of 10.56 percent in the Senate, deny to the Plaintiff, persons represented by the Appellant, and all other citizens of Florida due process of law or equal protection of the law in violation of Section 1 of the Fourteenth Amendment of the Constitution of the United States?

4. Does the refusal of the District Court to declare unconstitutional and enjoin the reapportionment plan contained in HB 17-X enacted by the Legislature of the State of Florida on March 9, 1966 in which there are deviations from mathematical equality in excess of 15 percent in 7 of the 117 House of Representative Districts, and in which there are deviations from mathematical equality in excess of 10 percent in 29 of the 117 House of Representative Districts, deny to the Plaintiff, persons represented by the Appellant, and all other citizens of Florida due process of law or equal protection of the law in violation of Section 1 [fol. 72] of the Fourteenth Amendment of the Constitution of the United States?

5. Does the refusal of the District Court to declare unconstitutional and enjoin the reapportionment plan contained in HB 17-X enacted by the Legislature of the State of Florida on March 9, 1966 in which there are deviations from mathematical equality in excess of 14 percent in 6 of the 48 Senatorial Districts, and in which there are deviations from mathematical equality in excess of 10 percent

in 12 of the 48 Senatorial Districts, deny to the Plaintiff, persons represented by the Appellant, and all other citizens of Florida due process of law or equal protection of the law in violation of Section 1 of the Fourteenth Amendment of the Constitution of the United States?

6. Does the refusal of the District Court to declare unconstitutional and enjoin the reapportionment plan contained in HB 17-X enacted by the Legislature of the State of Florida on March 9, 1966 in which there is a clear pattern of under-representation for the populous urban counties and over-representation for the sparsely settled rural counties in both legislative houses, deny to the Plaintiff, persons represented by the Appellant, and all other citizens of Florida due process of law or equal protection of the law in violation of Section 1 of the Fourteenth Amendment of the Constitution of the United States?

7. Does the refusal of the District Court to declare unconstitutional and enjoin the reapportionment plan contained in HB 17-X enacted by the Legislature of the State of Florida on March 9, 1966 and containing the features [fol. 73] described in the foregoing questions deny to the Plaintiff, persons represented by the Appellant, and all other citizens of Florida due process of law or equal protection of the law in violation of Section 1 of the Fourteenth Amendment of the Constitution of the United States, when the Court also had before it for consideration an apportionment plan jointly submitted by the Plaintiff and the Appellant at the invitation of the Court in which there was a maximum deviation or departure from mathematical equality of only 1.95 percent in the House of Representatives and a maximum deviation or departure from mathematical equality of only 3.35 percent in the Senate, and in which all electoral districts were geographically contiguous?

8. Does the refusal of the District Court to declare unconstitutional, arbitrary and unreasonable the reapportionment plan contained in HB 17-X enacted by the Legislature

of the State of Florida on March 9, 1966 and containing the features described in the foregoing questions deny to the Plaintiff, persons represented by the Appellant, and all other citizens of Florida due process of law or equal protection of the law in violation of Section 1 of the Fourteenth Amendment of the Constitution of the United States, when the Court also had before it for consideration an apportionment plan jointly submitted by the Plaintiff and the Appellant which, through relatively minor modifications and adjustments to the plan contained in HB 17-X, reduced the maximum deviations or departures from mathematical equality from 15.1 percent to 10.6 percent in the Senate and from 18.3 percent to 11 percent in the House of Representatives?

[fol. 74] 9. Does the refusal of the District Court to declare unconstitutional and enjoin the reapportionment plan contained in HB 17-X enacted by the Legislature of the State of Florida on March 9, 1966 in which three Senators are "grandfathered" or held over from the previous Senate while other Senators are not so "grandfathered" or held over, deny to the Plaintiff, persons represented by the Appellant, and all other citizens of Florida due process of law or equal protection of the law in violation of Section 1 of the Fourteenth Amendment of the Constitution of the United States?

10. Did the District Court err in according a greater presumption of validity to the plan enacted by the Legislature in HB 17-X than to the alternative plans submitted by the Plaintiff and the Appellant when the plan contained in HB 17-X was enacted on March 9, 1966 by a malapportioned Legislature (still composed of representatives elected under statutes enacted in 1963 and declared unconstitutional by the Supreme Court of the United States on June 22, 1964) on the eighth occasion on which a malapportioned and unconstitutional Legislature had been convened since this litigation was commenced on March 28, 1962?

Thomas C. Britton, County Attorney, Stuart Simon, Assistant County Attorney, Attorneys for Defendant, Supervisor of Elections of Dade County, Florida, 1626 Dade County Courthouse, Miami, Florida 33130.

[fol. 75] Proof of Service (omitted in printing).

[fol. 77]

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

[Title omitted]

NOTICE OF APPEAL BY RICHARD H. M. SWANN TO THE SUPREME COURT OF THE UNITED STATES—Filed March 25, 1966

Notice is hereby given that Richard H. M. Swann, Plaintiff herein, hereby appeals to the Supreme Court of the United States from the Order of the United States District Court for the Southern District of Florida entered in this action on March 18, 1966 at 9:38 A.M.

This appeal is taken pursuant to 28 U.S.C. Sec. 1253.

Plaintiff Richard H. M. Swann thus joins in the appeal previously filed herein by the Supervisor of Elections of Dade County, Florida, one of the above-named Defendants, and adopts by reference and incorporates herein in their [fol. 78] entirety Sections II and III of the Notice of Appeal filed by such Defendant on March 25, 1966.

D. P. S. Paul, P. D. Thomson, Paul & Sams, 1314 First National Bank Building, Miami, Florida 33131;
Richard F. Wolfson, 315 North Miami Avenue, Miami, Florida;

[File endorsement omitted]

Neal Rutledge, Rutledge & Milledge, 111 N.E. First Street, Miami, Florida 33131,
Attorneys for Plaintiff, Richard H. M. Swann.

[fol. 79] Proof of Service (omitted in printing).

[fol. 81]

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

No. 186-61-Civ-DD

RICHARD H. M. SWANN, Plaintiff,

vs.

TOM ADAMS, Secretary of State of the State of Florida, et al, Defendants.

Miami, Florida

TRANSCRIPT OF TESTIMONY—March 15, 1966

The above entitled matter came on for hearing before the Honorable Warren L. Jones, Circuit Judge, the Honorable David W. Dyer, District Judge and the Honorable William A. McRae, District Judge, at Miami, Florida, on the 15th day of March, 1966.

APPEARANCES:

Paul & Sams, by Daniel P. S. Paul, Esq., on behalf of the Plaintiff;

Hon. Earl Faircloth, Attorney General of Florida and Edward C. Cowart, Assistant Attorney General;
Thomas C. Britton, Esq., County Attorney of Dade County and Stuart L. Simon, Esq., Assistant County Attorney,

on behalf of the Defendants.

[fol. 82] Judge Jones: I suppose that the plaintiff opens. Mr. Paul, are you going to be the only one who is speaking for the plaintiff on this occasion?

Mr. Paul: Yes, your Honor.

Judge Jones: And the Attorney General has moved for the Secretary of State.

Mr. Faircloth: Mr. Edward Cowart, Assistant Attorney General, your Honor, will present the argument.

Judge Jones: Very well. How many of the intervenors desire to be heard this morning?

Mr. Britton: Your Honor, I am not an intervenor. I am here for the defendant, Supervisor of Registration of Dade County. I would like to be heard for a minute.

Judge Jones: How much time do you want?

Mr. Britton: Ten minutes.

Judge Jones: All right. Are there any other parties who will present argument this morning?

Mr. Paul, how much time will you need, do you think?

Mr. Paul: I think ten minutes would be ample, your [fol. 83] Honor.

Judge Jones: And for the Secretary?

Mr. Faircloth: Your Honor, it probably will not take twenty minutes, but I would like to be allowed that much time. We will present the argument for the Supervisor of Broward and the Supervisor for Monroe as well, so they will not be heard except through us.

Judge Jones: Are we ready to proceed? I take it that probably there will be no testimony offered to the Court, for the Court would judicially notice what the Legislature has done.

Is there any other evidence to be introduced at this hearing?

Mr. Faircloth: The State has none, your Honor, except the Exhibit, House Bill 17-X.

Judge Jones: Mr. Paul, do you have anything that you think we would need to have before us that is not before us?

Mr. Paul: No, your Honor, only the analysis and the suggested modifications which we filed this morning with the Clerk.

Judge Jones: That, I take it, is in the nature of briefs [fol. 84] rather than in the nature of evidence.

Mr. Paul: There is no argument submitted in that. It is an arithmetical analysis of the plan.

Judge Jones: I know; but the deductions are drawn from what is before the Court, I take it.

Mr. Paul: Not in the document which we filed, no.

Judge Jones: There isn't any admissible evidentiary matters in your analysis, is there?

Mr. Paul: No. I think it is properly denominated as a pleading.

Judge Jones: If we are ready to proceed, why, you may go forward, Mr. Paul.

STATEMENT BY MR. PAUL

Mr. Paul: May it please the Court, at the last hearing in this case, the Attorney General, in arguing that the Legislature should be given another chance, advised the Court at the 1965 special reapportionment session he had rendered a set of guide lines for the legislature in which he advised the legislature, and I quote: "The essence of the Supreme Court ruling is that every member of the Legislature must represent substantially, with no more [fol. 85] than a ten or fifteen per cent departure from absolute mathematical equality, the same number of people, so that each individual's right to vote for legislators will have the same weight."

Now, that malapportioned, unconstitutional legislature has now had another chance, its eighth. And the Attorney General has today filed a plan with this Court seeking its approval. Before that special session began two weeks ago, the Attorney General again furnished every member of the legislature with a document entitled, "Criteria and Guidelines for Reapportionment as Established by the Federal Court," in which he stated—and again I quote—

"The allowable mathematical percentage variance differs in some of the Supreme Court decisions. However, a study of these decisions reveals that a percentage variance of more than fifteen per cent would be difficult to sustain as complying with the one man-one vote.

"It is, therefore, respectfully submitted that a percentage variation not exceed fifteen per cent."

Now, I know of no better standard to judge this plan filed before the Court this morning than the standard laid [fol. 86] down by this Three-Judge Court in its own December 23rd opinion.

In that opinion, the Court will remember it stated, "Variations are to be sanctioned only when they cannot be avoided. We do not think it can be assumed that the fifteen per cent allowance or variance allowed in Coombs vs. Fortson establishes a rule of tolerance that will be followed as a legal principle."

Now, I think clearly the plan which the legislature adopted last week does not meet that standard. We have filed with the Court today an analysis of that plan which shows in the Senate in one district there is a variation of 15.1 per cent over the ideal ratio, and in three districts, 14.4 and 14.7 and 14.8, respectively, over the ideal ratio.

We look at the analysis of the house plan and we find that two districts, both in rural counties, vary 18.2 and 18.3 per cent over the ideal ratio. And in one other district, a 14 per cent variance over the ratio. In another district we have one area that gains this time, a populous area, which is 15.3 per cent under the deviation or the maximum ideal. Adding those two together, we get in the House [fol. 87] plan a spread of about 33.6 per cent.

Now, I think it is interesting when we look at this analysis that this discrimination follows a pattern.

In the Senate, of the eleven over-represented districts, seven consist of the small rural counties with Okaloosa, Walton and Holmes leading the list, being 15.1 per cent over-represented. And of those in the Senate plan under-

represented by the largest percentage, of the six under-represented districts, five are the populous counties with Palm Beach leading the list with 10.6 per cent under-representation, followed closely by Duval with 10.4 per cent under-representation.

In the House plan we find the same pattern of invidious discrimination. Eleven of the 17 over-represented districts consist of the small counties with Manatee leading the list with 18.3 and a second small county following closely behind with 18.2. And of those under-represented, Polk, a large county, leads the list of under-represented districts with 15.3 per cent under-representation.

I think on further analysis, it is interesting to note that these variations are not ones which in the language of this [fol. 88] Court's Opinion could not be avoided; unless one can read that language to mean, could not be avoided without some legislator losing his seat.

For example, in the House district in which Orange County, a populous county, is grouped, six are assigned under the House plan. Under the ideal ratio for that number of seats this population should be 253,000. The population of Orange County is 263,000. Therefore, Orange, a populous county, would have been under-represented in that district by itself. What did the Legislature do? They put Osceola in that district to increase Orange County's already under-represented status to 11.3 per cent. That clearly cannot be claimed that discrimination has any basis which constitutionally can stand.

Certainly, it cannot be justified on the basis of not splitting county lines, because if Orlando had been left alone in that district, no county lines would have been split.

In addition, the plan provides precedents and grandfather requirements which we believe are discriminatory and which cannot be upheld. For example, certain senators [fol. 89] are grandfathered in while other similarly situated, who are running from the same district they previously ran from, are not grandfathered in. We think neither the Senate nor the House plan meets the Attorney Gen-

eral's guidelines twice laid down by the Legislature and, more important, do not meet the tests laid down by this Court in its Opinion of December 23rd and by the Supreme Court of the United States in its decision.

The Florida Legislature has clearly not absorbed the basic premise laid down by the United States Supreme Court in Reynolds vs. Sims, and I quote:

"Citizens, not history or economic interests cast votes."

And further in the Opinion:

"A legislator represents people, not trees or acres."

We have today filed with the Clerk a set of suggested corrections in this legislative plan in which we show, without splitting any counties, that, in fact, deviations can be reduced from 15.1 in the Senate to 10.6 and in the House plan, from 18.3 to 11 per cent, and still not change the legislative plan basically.

[fol. 90] The Court also has before it the plan filed by the plaintiff in Dade County at the Court's request in which no county is split; all districts are contiguous, and the maximum deviation is less than 3.5 per cent. I think this plan shows how much better job the legislature could have done if it had any mind to comply with the Attorney General's guidelines or with the Court's tests laid down in its December 23rd opinion.

In closing, I would like to make one final recommendation to the Court, and that is that, irrespective of what the Court may decide to do, we would recommend that the period for qualification of candidates should be immediately extended to a period one week after the date of the Court's decision on the respective plans now pending before it.

Thank you.

Judge Jones: The Attorney General is number one in the order of appearances in the record here of the defendants. The Court does not have any particular preference

as to it, as to who shall follow whom. I take it that the Attorney General is asking for a complete affirmance from top to bottom of the legislative apportionment.

[fol. 91] If the supervisors defendants want to urge changes, perhaps they should proceed ahead of the Attorney General. If not, we will let the Attorney General go ahead. We do not know what your position is.

STATEMENT BY MR. BRITTON

Mr. Britton: Thank you, your Honor. I will attempt to make it clear.

The Supervisor of Registration for Dade County under the instructions of the Board of County Commissioners of Dade County, whom I also represent, are here to urge the Court to place into effect the plan that these defendants filed jointly with the plaintiff before you four months ago.

It was this month four years ago, your Honors, that this suit was commenced before you by Judge Swann who is here with us today. The sole task of the Court, as I understand it today, is to carry into effect the mandate of our highest Court. It is my understanding from the pleadings that there are three proposals urged to you today, one of which I would urge specifically.

Of those three, it is our understanding as your Honor expressed it, that the Attorney General will once again urge you to allow the Legislature's proposal, the eighth, [fol. 92] to go into effect. Mr. Paul has presented to you in capsule form the analysis that we filed with you in the pleadings and I will not repeat that, other than to make this comment: that the maximum spread between that county or those citizens in your state that are less adequately represented and most abundantly represented in the Senate, under the plan that the Attorney General would have you approve, is 25 per cent. The spread in the House is 33 per cent. So, under this plan, certain citizens of Florida would have a disproportionate voting ratio of four to three in the Senate and three to two in the House.

Judge Jones: Dade County is not unhappy with its own situation?

Mr. Britton: Not in the slightest, your Honor. Under that program, in the House there is a disproportion of over five per cent which we think to be totally needless. But, certainly, not invidiously discriminatory under any decision of the Court.

Judge Jones: And Dade County is just motivated by higher moral principles in wanting everybody else in the state to be as well treated as it has been.

Mr. Britton: The interest is more selfish, your Honor, [fol. 93] than that. I know of no reason why a citizen of Polk County could not come in after this Court adopts the legislature's plan and attack it in another Court proceeding. If it did, this case which had its beginning four years ago, would be prolonged perhaps for another year needlessly.

Apart from that selfish interest that I feel as a citizen here and I believe my fellow citizens feel, I do feel that it is our responsibility before you to urge the correct, the sound, the proper legal solution to you regardless of which way it affects us.

Judge Jones: Well, do not misunderstand me. I was not critical. I just want to get your position clear.

Mr. Britton: I did not interpret your Honor's remarks as critical.

The legislature's plan, it seems to me, has but one virtue, and that is the virtue that it meets the approval of the legislature. That virtue, as I understand it, stems from the premise that the legislature in some way reflects the desires, the will of 5 million people who are Floridians. That premise I would suggest to your Honor is totally [fol. 94] unsound in this instance. It is a conclusion that we have all arrived at, that this legislature was selected through a process which this Court has labeled invidiously discriminatory.

This legislature is a lame duck legislature, and the only virtue of its plan is that it was politically expedient to these lame ducks.

This same legislature, or one very nearly similarly constituted in 1962, proposed a legislative plan which accepted the approbation of all of our legislative leaders and guiders in the state and most of our representatives of the press. That legislative plan was placed before our people and was rejected by them by a vote of four to three. Two years later a very similarly constituted legislature conceived a second plan, a plan which again was placed before our people and that plan was rejected by a vote of two to one.

I would suggest to you that the premise that the legislature's plan is some special seal of acceptability or some special relationship to the aspirations and desires and wishes of our citizens is an unsound premise. If it is an unsound premise, then there is no justification for seeking [fol. 95] to modify that which must be held invalid into a plan which might achieve validity.

We have joined with the plaintiff in submitting before you the modified plan which he has suggested, because we believe it is our duty to suggest to you those changes that could be made in the plan which could not possibly, we believe, be upheld into a plan which could conceivably be upheld. That plan has the virtue of bringing the tolerance between over-representation and under-representation down to 20 per cent, or a ratio of, say, three to four.

The plan which we believe the Court must accept is the plan that the plaintiff has submitted to the Court. I say "must accept," because I believe that this Court's distillation of the law as it stands today in our country was precisely accurate. This Court said three months ago that precise exactness cannot, of course, be achieved, but only such minimal departures as necessity demands will be permitted. Variations are to be sanctioned only when they cannot be avoided.

The rest of this statement that I would read again to you was repeated to you by Mr. Paul and I will not belabor [fol. 96] you with your own announcement, other than to point out that of the three alternatives that are advocated

before the Court today—and I am aware of none others in the pleadings before you—that approaches, anywhere near the precision or equality of representation advanced by the plaintiff's plan.

The principle that 15 per cent tolerance or deviation might be accepted was specifically rejected by this Court and correctly so, when the Court noted that only those deviations which cannot be avoided may be accepted.

We have placed before you a plan which eliminates these departures entirely. There is no justification for this Court accepting anything less than that plan which proposes the most equal representation. It is for that reason, your Honors, that we urge that this Court adopt that plan submitted by the plaintiff and joined in by this defendant.

Thank you.

Judge Dyer: We have had some suggested plans filed by intervenors whom we have treated amicus curiae and they are not permitted to argue, which suggest that it [fol. 97] would be less discriminatory to sub-district Dade County and also do something with the large second district in the middle northeastern part of the state. Would you have a feeling about that?

Mr. Britton: Your Honor, I would like to comment on that, if I may.

The concept of separate districts for each representative has a noble history and a worthy objective, and I would be the last to oppose it on principle. I oppose it here for two reasons: In the first place, I am aware of no basis on which any human being today in this state can divide this state up into separate entities, whether it be those entities prescribed by our Article VII, Section 2 of our Constitution, fixing the limits of the legislature, or whether it would be that suggested by the State Legislature last week. I know of no way in which the state can be parceled up in these divisions where any man can truthfully tell himself afterwards he has compartmentalized the state in areas of equal population. And the reason for that is that our census today which is our only accurate record of popu-

lation and which is now six years old, does not have that degree of precision within it.

[fol. 98] I am aware that the legislature in attempting to reapportion the state for congressional districts did attempt this task through the device of using registered voters within precincts. The fallacy there is that it is based on a premise which no man can vouch for. It is based on the premise that within any given area some 41 point something per cent of the population is registered voters. That premise, I think, our common sense tell us, is an illusionary one, at the very best. There is no verification of that premise at all, unless you take the state as a whole, as an entity, or the county as a unit as an entity.

If you attempt to parcel off as sub-districts in the southeastern part of Dade County—and may I remind you that Dade County is a county which is larger in area than five states in our Union—if you should attempt to take this large geographical area and divide it up into compartments based on this premise, without any verification, I think this Court would have side-stepped the requirement that population be the criteria for apportioning the state.

The second reason that I would urge is this: In our [fol. 99] state's political history I know of no instance where an effort has been made to compartmentalize the state into units for representation smaller than or dividing and splitting and crossing over the traditional county boundaries. This state of ours has a great many counties unlike some. This state has grown up in the pattern of these county units being treated as political entities within the state, subdivisions of the state. So, for a second reason, I believe that at this time it would be impractical and unsound, and I believe unjust, to attempt to compartmentalize the state in that fashion.

Now, responding to your Honor's second question, if I followed it, which was, do we have a comment on the proposal to further fraction those multi-county districts. This was advanced by Senator Matthews in a brief filed before

the Court the other day. We have attempted to do that in the modification plan submitted to you.

The problem that we encounter is, and the problem, I am certain, that the legislature encountered, is that an attempt to divide areas made up of a great many small counties with populations which run from two to six thou-
[fol. 100] sand, in order to achieve representation, presents us with the alternative choice of giving disproportionate representation to some parties. That is the practical problem.

The final remark that I will make, at the risk of imposing on your Honor's question, is this: As I understand the rulings of our higher Court, when there is a clash as their inevitably must be between the principle that it is desirable to have one representative for one group of people and the principle that every citizen must have an equal voice in the selection of representatives, when there is a clash between those two desirable objectives, only one is guaranteed by our constitution, and that is the second: the one that guarantees equal representation.

When there is such a clash, then the only other desirable objective must yield to it, for only one is assured us and promised us by our constitution.

This is the reading that I make of the decision as recent as the recent District Court decision in South Dakota.

Thank you.

[fol. 101] STATEMENT BY MR. COWART

Mr. Cowart: May it please the Court, the position the Attorney General takes in relation to the plan that has been submitted before the Court for consideration is, of course, in the number one instance, it is a plan of the legislature; that it is a plan of the representatives of the people of the State of Florida that is adopted by the legislature which has been labeled to be an invidiously discriminatory legislature, but which meets the problem as a result of the decision in Swann versus Adams in the United States Su-

preme Court. And we think that was arrived at in a commendable way.

The legislature had before it and was comprised, as this Court has ruled, in a manner that has not complied with the constitutional standards of Reynolds vs. Sims. Notwithstanding that, with an approach toward an attempt to compute and set before us a plan of legislative apportionment which was valid which met constitutional standards, House Bill 17-X was adopted.

In pointing out the plan, we want to say first to the Court that the guidelines that we have recognized and the guide lines that we have advised the legislature on have [fol. 102] been to the point that mathematical certainty in and of itself is not a rigid formula; that certain departures are available from certain mathematical decisions which they must not depart from and which could be invidiously discriminatory of the standards set by the Supreme Court of the United States; notwithstanding their declaration in Reynolds vs. Sims that they were leaving this matter largely within the judgment of the District Court.

For on the same day of the decision of Reynolds versus Sims, the decision of Lucas versus Colorado was decided and the Court alluded to the position in Lucas, that a 1.7 variance, the maximum population variance ration in the Senate of Colorado, has at least arguably inferentially met the test.

Judge Dyer: Actually, they did not say that. Didn't they just say that they did not have to look into that?

Mr. Cowart: I think, sir, the language was, as I recall it, that 1.7 inferentially met the standards. They said "inferentially." I would like to point out to the Court that the 1.7 variation used in the maximum population ration standards gives us an equation of a 26. variance on devia- [fol. 103] tion rather on top than bottom to arrive at 1.7 on percentages.

The plan as adopted by the legislature of Florida, its largest variance is 1.41 in the House. When we look at the 1.41 figure measured against the standards of Lucas, if we

call it a standard, we find that we comply. But more significant, and we think extremely commendable as far as the legislative mathematics were concerned, is that 50.43 per cent of the people of Florida will elect 50.43 per cent of the House of Representatives of the State of Florida.

I fail to see how we can come any closer to mathematical precision than that equation. When it is turned over to the Senate, we find that 48.61 per cent of the population of the people of Florida will elect 50 per cent of the Senate. We fail to see that there has been any invidious discrimination against the most populous areas for the most populous areas will compile the percentages to the left side of our equation, to-wit, the per cent of our population that elects the largest percentage of the legislature.

In further analysis of the plan, we find that 88 seats in the house—now, those are individual seats, not districts [fol. 104] —do not exceed 10 per cent. In the House, 29 seats do exceed 10 per cent, but only seven exceed 15 per cent. And in the Senate, 36 seats do not exceed 10 per cent with only 12 exceeding 10 per cent and only one exceeding five per cent. And that, of course, is a 15.09 figure.

It, first of all, is an expression by the people of Florida and the Attorney General puts great significance on this fact, for the legislature, in considering the plan offered as representative of the people. And although we are not hesitant to say that they have not met this test before as has been decreed by this Court and by the United States Supreme Court, we feel that in this instance they have. That the plan itself does not contain any fragment which, considered as a whole, amounts to that which is invidiously discriminatory.

Now, it is said that we do this because we go to a multi-county, a multi-member and single-member district in some instances.

We respectfully submit to this Court that all of these fragments of unconstitutionality, if you might speak of them as such, shall have been met by the Supreme Court

and been ruled upon. I need only say that multi-member [fol. 105] districts have been the subject matter of a number of reapportionment cases. And I think one of the most recent enunciations on this has been the aspect of the Arkansas case which says in and of themselves, they do not constitute that which is invidiously discriminatory.

As far as the residence requirements that are posed and put into the plan, we respectfully submit that this also has been the subject matter of the Federal Court's attack. For the very criteria used in Davis versus Mann, the very case that we allude to in our motion, was the fact that one of the counties would never be able to elect a member to sit in the House of Virginia for the simple reason that the more populous areas outvoted it.

I think it is commendable to stand before this Court and say that our legislature recognized this fact in attempting to equal the position argued and well taken by it in Davis versus Mann that they have inserted these requirements in certain areas.

The one in the senatorial district in and of itself is not completely a residence requirement. In a sense that has been argued before. They merely place and try to procure [fol. 106] representation for Monroe County to our immediate south. In an attempt to arrive at this, 103,000 was used as a maximum population allowance. And they came into Dade County for the basis of compiling population statistics based upon voter precincts and have only said this: that a senator must reside in the 42 senatorial districts, but that he will be elected at large in Dade and Monroe Counties.

Again, we feel an attempt to try to comply with the argument that was set forth in Davis versus Mann, that the more populous area will always control the election and that the less populous area can never get representation.

As far as the grandfather clauses and positions themselves, there is no grandfathering in these bills except in those senatorial districts where their constituencies have remained identical.

It is true that some of these senators were not grandfathered in and we respectfully submit that this was by choice of individual senators and it does not and should not, we feel, lessen the position that it is in and of itself not invidiously discriminatory. For there were odd numbered senators who were elected by the people in their dis-
[fol. 107] tricts, in their particular districts, to serve a four-year term and they are only completing those particular terms in those districts where the individual senator's constituency has not changed.

We respectfully submit to this Court that the legislature of the State of Florida under the mandate of Swann versus Adams in the instant case has produced for this Court a plan that we contend is more than argued permissible. For when you consider that the greatest variance that is in the plan is in the House and that 50.43 of the people of the State of Florida will elect 50.43 per cent of the House of Representatives, we feel that even the closest mathematical equation is met here.

We cannot say that if the 15 per cent rule is construed as a hard and fast rule that it meets the test. However, we say that the 15 per cent rule is not a hard and fast rule, but that as we set forth in our guidelines that had been eliminated here today and that a plan of above 15 per cent would be difficult to defend.

We feel that since the legislature in this instance has departed from it in three instances only, and it is not and of
[fol. 108] itself invidiously discriminatory when we look at what the populous will elect that we can defend this position without any inconsistency in the position we have taken.

Judge Jones: What is the defense?

Mr. Cowart: Sir?

Judge Jones: What is the defense of exceeding the 15 per cent?

Mr. Cowart: The legislature had before it, or attempted to comply in this instance, we think, with constitutional standards in the State of Florida in not changing any

county unit. The political subdivisions that have been pointed out have remained intact. The congressional districting was used as a criteria to arrive at the differential. And it is the manipulation of the counties by population within these districts as to why the deviations are present.

And we respectfully submit that the defense lies in the fact that they have not gone into a more populous senatorial aspect as might have been done, but left it as county units, the individual units which are contained within these variations.

We feel further that the defense is that in and of itself, [fol. 109] it is not invidiously discriminatory.

Judges Jones: It is unless explained, isn't it?

Mr. Cowart: Yes, sir.

Judge Jones: What is the explanation of the congressional district lines?

Mr. Cowart: This is a portion of the explanation. It is a confinement within that district. And further, the explanation that the county lines have not been cut. And further, that in apportioning this entire legislature, looking at the state as a whole, the particular house involved has arrived at the absolute mathematical certainty of population as opposed to the makeup of the House.

In staying in the numbers that they have allocated to this plan and in staying within the divisions of these numbers, they have arrived at the absolute mathematical certainty to which we have alluded before.

Judge Jones: You could have 51 per cent of the representation elected by 48 per cent of the people and still not give Manatee County any voice at all, couldn't you?

[fol. 110] Mr. Cowart: Yes, sir, you could, but I feel that would be invidiously discriminatory to the people of Manatee County. It would be, I think, a departure completely from all of the standards that we have seen mirrored.

I would only point further to the Court that in just last week, or the last week of February, the Supreme Court

approved the plan of Wyoming where the Three Judge Federal Court in the District of Wyoming apportioned the senate of that particular state. And the maximum population ratio there was 2.08 to one.

We have come nowhere near this particular standard, for our highest standard is 1.41, and when we mirror the Senate plan to 1.35, which would be a 15 per cent variation, we find that we fall below that 15 per cent also.

Judge Jones: Is there anything further, Mr. Paul?

FURTHER STATEMENT BY MR. PAUL

Mr. Paul: There is, your Honor, yes. May it please the Court, I am interested in the Attorney General's argument of the so-called fragment of unconstitutionality as he admits exists in this Bill.

[fol. 111] I do not think that variances as great as we have outlined in our analysis can be considered to be fragments of unconstitutionality. I think the Attorney General overlooks some very significant language in the Lucas decision on which he relies in reference to that very point. And I quote from the decision, at page 735:

"On the other hand, disparity from population based upon representation, though minor, may be cumulative instead of offsetting where the same areas are disadvantaged in both houses of the state legislature and may, therefore, render the apportionment scheme at least constitutionally suspect."

I think that is exactly the pattern that we find here. As I pointed out in the Senate of the eleven over-represented districts, seven consist of small rural counties and of the six under-represented districts, five are the populous counties.

In the House, eleven of the 17 over-represented districts are small counties and Polk County leads the list of unrepresented districts.

I think it is the cumulative effect, both of the size of [fol. 112] the disparity and of the number of disparities

in both of the plans that make both the House and the Senate plans invidiously discriminatory.

The Attorney General has referred to the recent Supreme Court plan which is a one-line opinion, just saying that the decision is affirmed. But I ran that case in the Law Week and the question presented to the Court was "Could the plan be approved where all of the variances in both plans were less than 15 per cent?" That was the question presented to the United States Supreme Court.

Judge Dyer: Is that the Colorado case?

Mr. Paul: No, sir, that is the Wyoming case, Harrison versus Schaefer. I don't have the name of the—

Judge Dyer: Would that be Crawford versus Faubus?

Mr. Paul: That is correct. That was the question presented in that case. I think the Chief Judge has asked a very significant question, and that is, really, what is the explanation of these districts. I do not think that the [fol. 113] Attorney General can rely on congressional districts. This is particularly true in the House plan. Congressional districts were not followed in the House plan. We only have to look at Orange County and its grouping with Osceola to see that the county lines could not have been followed. The congressional districts, incidentally, are on appeal themselves under challenge of being invidiously discriminatory.

The Senate plan does not completely follow the congressional districts, and, in fact, the Attorney General's map exhibit attached to the motion filed this morning is inaccurate. It shows Dade County under the Senate plan split into three pieces, which is the case under the congressional plan district, but not the case under the plan adopted by the legislature.

Judge Jones: Is there anything further, Mr. Britton?

FURTHER STATEMENT BY MR. BRITTON

Mr. Britton: Your Honor, if I understood the Attorney General, he referred not to the Arkansas case which Mr. Paul correctly related to the Court, but, rather, to the Wyoming case.

If I understood him correctly, I should like to mention the Wyoming case. The United States Supreme Court [fol. 114] Reporter indicates that only one question was presented to the United States Supreme Court, and that was not whether or not the population deviation was disproportionate or not, but whether or not a multiple member district could be acceptable. It was held that it was.

In the Arkansas case, Mr. Paul did refer to it. It was noted that nowhere did the deviation exceed 15 per cent. That is our understanding of those two most recent decisions.

Judge Jones: The Court as well as counsel are aware of the desirability of an early doing of whatever we are to do. Is it felt that the Court would be helped by further briefs? No one volunteering a reply to that question, we assume that no further brief would be helpful, and the Court will take it on submission under the record as it has been made, the papers that have been filed and the arguments that have been made.

The Court will stand in recess.

[fol. 116] CLERK'S CERTIFICATE (omitted in printing).

[fol. 117]

SUPREME COURT OF THE UNITED STATES

No. 136—October Term, 1966

RICHARD H. M. SWANN, et al., Appellants,

v.

TOM ADAMS, Secretary of State of Florida, et al.

Appeal from the United States District Court for the Southern District of Florida.

ORDER NOTING PROBABLE JURISDICTION—
October 10, 1966

The statement of jurisdiction in this case having been submitted and considered by the Court, probable jurisdiction is noted and the case is placed on the summary calendar.